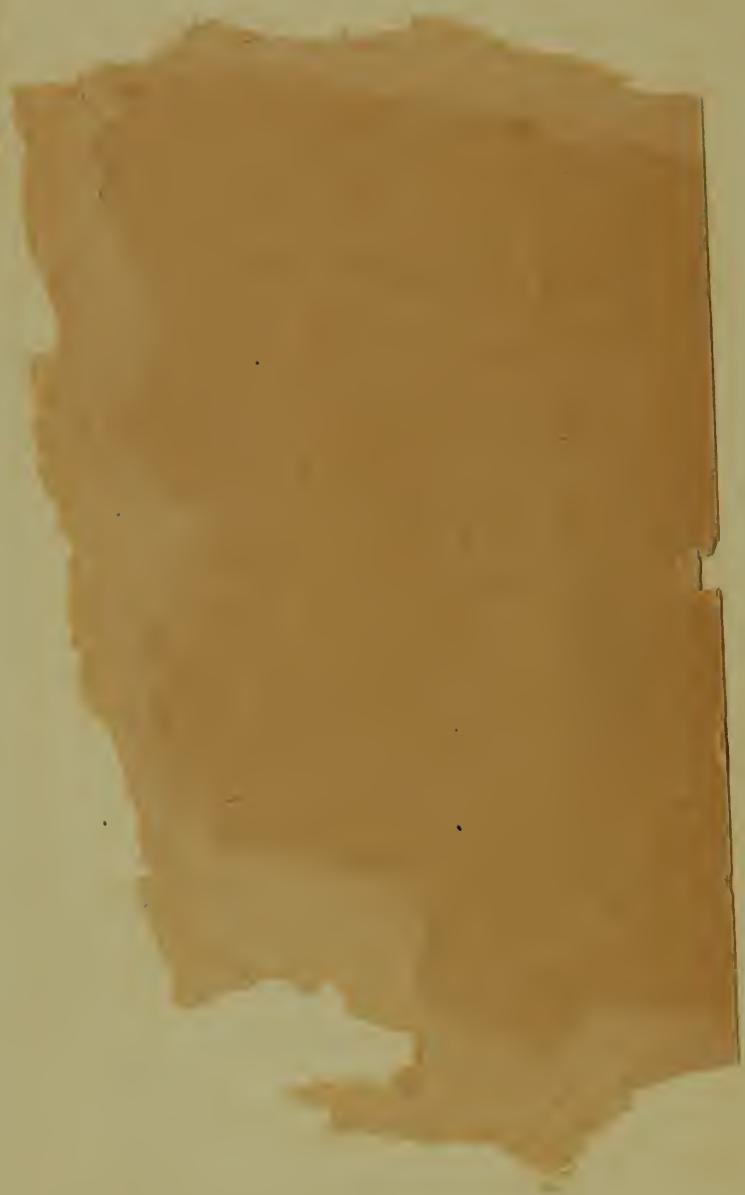


NAVAL WAR COLLEGE  
—  
REGULATION OF MARITIME WARFARE  
—  
1925

U.S. GOVERNMENT







NAVAL WAR COLLEGE

INTERNATIONAL LAW  
DOCUMENTS

REGULATION OF MARITIME WARFARE

1925



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## PREFACE

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The discussions on international law at the Naval War College have often concerned the regulation of maritime warfare. During the World War many States issued new or more extended rules for their naval forces. It is not possible to reprint all these, but it seems desirable to have typical rules of this and earlier periods easily available for comparison.

It should be emphasized that the official version is in the language of the State issuing the rules.

In 1925, as in recent years, George Grafton Wilson, LL. D., professor of international law in Harvard University, conducted the discussions on international law, under the auspices of the War College authorities.

W. V. PRATT,  
*Rear Admiral, United States Navy,*  
*President, Naval War College.*

JUNE 5, 1926.



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## **INTERNATIONAL LAW DOCUMENTS—REGULATION OF MARITIME WARFARE**

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During the period of the World War, 1914–1918, regulations relating to the conduct of maritime warfare were issued by many States. Some of these were published as regulations, others in decrees and in varying forms, but prescribing conduct for maritime forces and defining rights and obligations of neutrals and belligerents. Many referred directly or indirectly to earlier formulations of rules, such as those of the Hague or other conventions and declarations, and to the resolutions of the Institute of International Law. There has often been marked difference in rules even when the same convention or other document has been their basis. Nearly all these documents are scattered and not easily available for comparison. For convenience in comparison a considerable number of these have been brought together in topical arrangement in the following pages.

It is recognized that even under identic regulations there may be unlike practice, but a knowledge of the degree of uniformity in the written rules is desirable. Subsequent attempts to draw up international conventions or to secure other international action may be facilitated by some acquaintance with what has already been done, and this comparison would also be helpful in drafting national rules which relate to conduct in time of war.

In the Hague conventions and in the Declaration of London the official language is French. In other cases the language of the State issuing the rule is the official language. Some special instances of State orders and decrees have been inserted as illustrative. The instructions relating to retaliatory measures have in general been omitted as outside the field of international law.

Other rules, regulations, decrees, etc., not here printed, may be found in the Naval War College International Law Publications, particularly of the years 1915–1918. In the General Index to International Law Situations, Topics, and Discussions, 1901–1920, and indexes to subsequent volumes, references to special subjects may be found.



## EXPLANATION OF REFERENCES

Br. O. in C-----	British Order in Council: Aug. 20, 1914 (Declaration of London). Oct. 29, 1914 (Declaration of London). Mar. 11, 1915 (enemy destination and origin). Mar. 23, 1915 (requisition). Oct. 10, 1915 (enemy character). Oct. 12, 1915 (contraband list). July 7, 1916 (Declaration of London). Jan. 6, 1917 (enemy destination and origin). Mar. 30, 1916 (Declaration of London).
China, Reg-----	China, prize regulations, 1917.
D. of L-----	Declaration of London, 1909.
D. of P-----	Declaration of Paris, 1856.
Fr. Dec-----	France, decree: Nov. 6, 1914 (Declaration of London). Mar. 13, 1915 (enemy origin and destination). Oct. 26, 1915 (enemy character). July 7, 1916 (Declaration of London not applicable).
Fr. Ins-----	France, Instructions sur l'application du droit international en cas de guerre, Dec. 19, 1912.
Ger. App. P. C-----	Germany, Appendix to Prize Code, 1914.
Ger. O-----	Germany, ordinance, Sept. 30, 1909.
Ger. O. amendment-----	Germany, ordinance amendment, Apr. 18, 1915.
Ger. P. C-----	Germany, Prize Code, 1916.
Ger. P. C. amendment-----	Germany, Prize Code amendment, July 16, 1917.
Ger. P. O-----	Germany, prize order, 1912.
H. C-----	Hague Convention: I. Conventions for the pacific settlement of international disputes 1899 and 1907. II. Convention respecting the limitation of the employment of force for the recovery of contract debts. III. Convention relative to the commencement of hostilities. IV. Conventions concerning the laws and customs of war on land 1899 and 1907. V. Convention respecting the rights and duties of neutral powers and persons in war on land. VI. Convention relative to the status of enemy merchant ships at the outbreak of hostilities. VII. Convention relative to the conversion of merchant ships into warships. VIII. Convention relative to the laying of automatic submarine contact mines. IX. Convention respecting bombardment by naval forces in time of war. X. Conventions for the adaptation of the principles of the Geneva convention to maritime war, 1899 and 1907. XI. Convention relative to certain restrictions on the exercise of the right of capture in maritime war. XII. Convention relative to the establishment of an international prize court. XIII. Convention respecting the rights and duties of neutral powers in maritime war. XIV. Declarations prohibiting discharge of projectiles and explosives from balloons, 1899 and 1907.

## EXPLANATION OF REFERENCES

Institut-----	Institut de Droit International les Lois de la Guerre Maritime dans les Rapports entre Belligérants, Manuel adapté par l'Institut de Droit International, session d'Oxford, 1913.
Italy, Dec-----	Italy, decree (Declaration of London), June 3, 1915.
Italy, P. R-----	Italy, prize regulations, July 15, 1915.
Jap. Dec-----	Japan, declaration: Aug. 23, 1914 (contraband). Aug. 24, 1914 (days of grace).
Jap. Reg-----	Japan, regulations governing capture at sea, 1904, 1914.
Norway, Dec-----	Norway, decree: Oct. 13, 1916. Jan. 30, 1917.
Port. Dec-----	Portugal, decree: Aug. 14, 1916 (contraband).
Rus. Dec-----	Russia, decree: Sept. 1, 1914 (Declaration of London). Dec. 8, 1914 (Declaration of London). Declaration, Nov. 8-21, 1916, (Declaration of London not applicable).
Rus. Ins-----	Russia, instructions concerning the stopping, examining, and detaining of vessels, Sept. 1, 1914.
Rus. P. O-----	Russia, prize order, Feb. 4-17, 1916 (Declaration of London).
Rus. Reg-----	Russia, regulations on maritime prize, Mar. 27, 1895.
Spain, Dec-----	Spain, decree: May 3, 1898. June 29, 1917.
Spain, Ins-----	Spain, instructions for the exercise of the right of visit, Apr. 24, 1898.
Sweden, Dec-----	Sweden, decree, July 19, 1916.
U. S. Ins-----	United States, instructions for the Navy of the United States governing maritime warfare, June, 1917.

# REGULATION OF MARITIME WARFARE

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## GENERAL PROVISIONS

### Extent of obligation.

The provisions of the present convention do not apply except between contracting powers, and then only if all the belligerents are parties to the convention.—VI, H. C. 1907 art. 6; VII, ib., art. 7; VIII, ib., art. 8; IX, ib., art. 8; X, ib., art. 18; XI, ib. art. 9; XIII, ib., art. 28.

The present declaration is binding on the contracting power only in case of war between two or more of them. It shall cease to be binding from the time when, in a war between the contracting powers, one of the belligerents is joined by a noncontracting power.—IV, H. C. 1899, arts. 2, 3; XIV, ib. 1907.

ART. 19. The commanders-in-chief of the belligerent fleets must see that the above articles are properly carried out; they will have also to see to cases not covered thereby, in accordance with the instructions of their respective Governments and in conformity with the general principles of the present convention.—X, H. C. 1907.

### Obligation of naval forces.

ART. 20. The signatory powers shall take the necessary measures for bringing the provisions of the present convention to the knowledge of their naval forces, and especially of the members entitled thereunder to immunity, and for making them known to the public.—X, H. C. 1907.

### Declaration of London, 1909.

*Preliminary provision.*—The signatory powers are agreed in declaring that the rules contained in the following chapters correspond in substance with the generally recognized principles of international law.—D. of L.

ART. 65. The provisions of the present Declaration form an indivisible whole.—D. of L.

ART. 66. The signatory powers undertake to secure the reciprocal observance of the rules contained in this declaration in case of a war in which the belligerents are all parties to this declaration. They will therefore issue the necessary instructions to their authorities and to their armed forces, and will take the measures which are proper in order to guarantee the application of the declaration by their courts, and more particularly by their prize courts.—D. of L.

**Application of regulations.**

1. The provisions of the present regulations are applicable to all cases for which, in matters relating to maritime prizes, special rules are not established by conventions between Russia and other nations.

NOTE.—Regarding the capture of enemy's property on shore or from shore special rules are observed.

—Rus. Reg. 1895.

**Declaration of Paris, 1856.**

2. On the precise basis of the Paris declaration of April 4 (16), 1856, the following rules are observed in the application of these regulations: (1) Letters of marque are not issued in the name of private persons; (2) a neutral flag covers a hostile cargo, with the exception of contraband of war; (3) neutral goods, with the exception of contraband of war, are not subject to confiscation under a hostile flag; and (4) a blockade, in order to be considered obligatory, must be effective—that is, it must be maintained with sufficient military forces to actually prevent access to the hostile shore.—Rus. Reg. 1895.

**Application of rules.**

4. In determining the application of those rules of these regulations which limit the right of stopping, examining, detaining, and confiscating the vessels of a hostile or neutral power and its subjects, on the principle of reciprocity, the Imperial Government reserves to itself the right to admit a departure from the rules mentioned, in the case of a hostile or neutral power from which it is impossible to expect their observance, and to conform the steps which it takes in the matter to the special circumstances of a given case.—Rus. Reg. 1895.

ART. X. Concerning matters not provided for in the law, treaties, and these regulations, the rules of international law shall be applied.—Jap. Reg. 1904.

ART. 5. The provisions of an international treaty regarding war shall be applicable only when all the belligerents are parties thereto. And it must be borne in mind that a State which ratifies or becomes a party to a treaty reserving certain articles thereof will not be bound by those articles.—Jap. Reg. 1914.

49. Other particulars which are not provided in the present regulations shall be carried out according to the order of the Government, treaty provisions, and customary practice of international law.—China, Reg. 1917.

**Enforcement of regulations.**

50. The present regulations shall be enforced on the date of their promulgation.—China, Reg. 1917.

ART. 8. The present decree shall come into force immediately and all legislation contrary thereto is hereby revoked.—Port. Dec. 1916.

## NEUTRAL JURISDICTION

### INVIOABILITY

#### **Belligerents to respect.**

ART. 1. Belligerents are bound to respect the sovereign rights of neutral powers and to abstain, in neutral territory or neutral waters, from any act which would, if knowingly permitted by any power, constitute a violation of neutrality.—XIII, H. C. 1907.

ART. 1. Les règles spéciales à la guerre maritime ne sont applicables qu'à la pleine mer et aux eaux territoriales des belligérants à l'exclusion des eaux qui, sous le rapport de la navigation, ne doivent pas être considérées comme maritimes. Institut, 1913.

1. Belligerents are bound to respect the sovereign rights of neutral powers and to abstain, in neutral territory or neutral waters, from all acts which would constitute, on the part of the powers which knowingly permitted them, a nonfulfillment of their neutrality.—U. S. Ins. 1917.

#### **No hostilities in.**

ART. 2. Any act of hostility, including capture and the exercise of the right of search, committed by belligerent warships in the territorial waters of a neutral power, constitutes a violation of neutrality and is strictly forbidden.—XIII, H. C. 1907.

12. All acts of hostility, including capture and the exercise of the right of visit and search, committed by belligerent ships of war in the territorial waters of a neutral power, constitute a violation of neutrality and are strictly forbidden.—U. S. Ins. 1917.

22. Vous vous conformez strictement aux interdictions imposées aux belligérants par la Convention XIII da La Haye, du 18 octobre 1907, concernant les droits et devoirs des Puissances neutres en cas de guerre maritime.—Fr. Ins. 1912; Art. 21, 1916.

ART. 3. The right of capture does not hold—

(a) Within neutral waters; i. e., within a sea area, 3 sea miles wide, measured from the low-water coast line, bordering the coast and the islands and indentations appertaining thereto. As appertaining are: Islands which are not farther than 6 miles distant from one of the mainland coasts of the same State; indentations whose coast is exclusively in the possession of the neutral State and whose opening is 6 sea miles or less wide.

(b) Within those waters which are by convention closed to operations of war or to ships of war. These are:

(a) The Suez Canal, including its entrance harbors and a sea area of 3 sea miles beyond them. (Art. 4, sec. 1, of the treaty of Constantinople of October 29, 1888.)

(β) The Bosphorus and the Dardanelles, so far as Turkey is not herself a belligerant. (Treaty of London concerning narrow seas of July 13, 1841; art. 10 of the Peace of Paris of March 30, 1865, and Appendix I thereto; art. 2 of the treaty of London of March 13, 1871; art. 63 of the treaty of Berlin of July 13, 1878.)

(γ) The waters of Corfu and Paxe, so far as no other power than Greece, Great Britain, France, Russia, Austria-Hungary, and Germany are parties to the war. (Art. 2 of the treaty of London of November 14, 1863, and art. 2 of the treaty of London of March 24, 1864.)

(δ) The mouths of the Danube. (Art. 42 of the treaty of Berlin of July 13, 1878.)

(ε) The mouths of the Congo and Niger and the coastal waters adjacent thereto. (General agreement of the Berlin conference of February 26, 1888, arts. 25 and 33.) The right of capture may also be no further exercised when a merchant vessel during the course of pursuit or while under visit and search reaches the waters referred to in (α) and (β).—Ger. O. 1909.

ART. 3. Prize law may only be exercised on the high seas not within neutral territorial waters; i. e., within waters which, for a distance of 3 nautical miles from low-water mark, fringe the coast, together with the adjacent islands and bays. This includes islands if they are not more than 6 nautical miles distant and bays if their coast line is exclusively in the possession of neutral States and their entrance is not more than 6 nautical miles wide. A war vessel may, of course, pass through neutral territorial waters in order to hold up a ship outside these limits. International channels are also neutral territorial water, where they are less than — nautical miles wide; this must be taken into account in the case of operations in the sound. Should the ship be held up just outside territorial waters, she should first of all and without any delay be declared captured, and her examination should only be proceeded with after it has been satisfactorily shown that her capture took place outside the territorial limit; should this not have been the case the vessel should at once be released. In this way alone can the ship be prevented from escaping into neutral waters before she has been declared captured and thus having to be released.—Ger. P. C. 1916.

16. The stoppage, examination, and detention of hostile or suspicious vessels and cargoes is permitted throughout the extent of the ocean and other waters, with the exception of those under the dominion of a neutral power or those excluded from military operations by special international agreements.—Rus. Reg. 1895.

ART. 3. When a ship has been captured in the territorial waters of a neutral power, this power must employ, if the prize is still within its jurisdiction, the means at its disposal to release the prize with its officers and crew, and to intern the prize crew. If the prize is not in the jurisdiction of the neutral power, the captor government, on the demand of that power, must liberate the prize with its officers and crew.—XIII, H. C. 1907.

ART. 22. A neutral power must similarly release a prize brought into one of its ports under circumstances other than those referred to in Article XXI.—XIII. H. C. 1907.

ART. 3. A ship seized in violation of the foregoing provisions is to be released immediately, especially at the request of the neutral government.—Ger. O. 1909.

3. Seas subject to the sovereign jurisdiction of neutral powers are absolutely inviolable; right of visit may not, therefore, be resorted to within them, even if it be alleged that it was attempted to exercise such right in the open sea, and that, on chase being given, and without losing sight of the vessel pursued, the latter penetrated into neutral waters. Neither may the violation of the rights attaching to such waters be justified under the pretext that the coast washed thereby was undefended or uninhabited.—Spain, Ins. 1898.

31. To the original owner of property detained on waters situated within the dominions of a neutral power or excluded from military operations by special international agreements this property is returned, and damages caused by its detention or injury are only made good on the demand of the proper neutral power or the power which participated in the agreement mentioned, and provided that such demand be made within the course of a year from the day the property was retained. If, however, such demand is not made within the course of the period mentioned the detained property is confiscated for the benefit of the government, without any reward being given to the person who detained it.—Rus. Reg. 1895.

ART. II. No visit, search, or capture shall be made in neutral waters nor in waters clearly placed by treaty stipulations outside the zone of hostile operations.—Jap. Reg. 1904.

ART. 2. Capture at sea shall not be made and other hostile actions shall not be taken in the territorial waters of a neutral country.—Jap. Reg. 1914.

ART. 4. A prize court can not be set up by a belligerent on neutral territory or on a vessel in neutral waters.—XIII, H. C. 1907.

2. No visit, search, or capture of a merchant vessel shall be made in the territorial waters of a neutral country or the waters of a territory which by international treaty stipulation is neutralized.—China, Reg. 1917.

#### Duty of neutral to protect.

ART. 25. A neutral power is bound to exercise such surveillance as the means at its disposal allow to prevent any violation of the provisions of the above articles occurring in its ports or roadsteads or in its waters.—XIII, H. C. 1907.

#### Right of neutral to act.

ART. 26. The exercise by a neutral power of the rights laid down in the present convention can under no circumstances be considered as

an unfriendly act by one or other belligerent who has accepted the article relating thereto.—XIII, H. C. 1907.

### INNOCENT PASSAGE

ART. 10. The neutrality of a power is not affected by the mere passage through its territorial waters of warships or prizes belonging to belligerents.—XIII, H. C. 1907.

2. The neutrality of a power is not affected by the mere passage through its territorial waters of ships of war or prizes belonging to belligerents.—U. S. Ins. 1917.

### SOJOURN

#### Regulations impartial.

ART. 9. A neutral power must apply impartially to the two belligerents the conditions, restrictions, or prohibitions made by it in regard to the admission into its ports, roadsteads, or territorial waters, of belligerent warships or of their prizes. Nevertheless, a neutral power may forbid a belligerent vessel which has failed to conform to the orders and regulations made by it, or which has violated neutrality, to enter its ports or roadsteads.—XIII, H. C. 1907.

#### 24-hour interval.

ART. 16. When warships belonging to both belligerents are present simultaneously in a neutral port or roadstead, a period of not less than 24 hours must elapse between the departure of the ship belonging to one belligerent and the departure of the ship belonging to the other. The order of departure is determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of its stay is permissible. A belligerent warship may not leave a neutral port or roadstead until 24 hours after the departure of a merchant ship flying the flag of its adversary.—XIII, H. C. 1907.

8. When ships of war of opposing belligerents are present simultaneously in the same neutral port or roadstead, a period of not less than 24 hours must elapse between the departure of a ship belonging to one belligerent and the departure of a ship belonging to the adversary.—U. S. Ins. 1917.

ART. 12. In the absence of special provisions to the contrary in the legislation of a neutral power, belligerent warships are not permitted to remain in the ports, roadsteads, or territorial waters of the said power for more than 24 hours, except in the cases covered by the present convention.—XIII, H. C. 1907.

ART. 13. If a power which has been informed of the outbreak of hostilities learns that a belligerent warship is in one of its ports or roadsteads, or in its territorial waters, it must notify the said ship to depart within 24 hours or within the time prescribed by local regulations.—XIII, H. C. 1907.

5. In the absence of special provisions to the contrary in the legislation ordinances, or treaties of the neutral power, belligerent ships of war are forbidden to remain in the ports, roadsteads, or territorial waters of the said power for more than 24 hours, except in the cases covered by paragraphs 6, 7, 8, 9, 10, and 17.—U. S. Ins. 1917.

#### Extension of stay.

ART. 14. A belligerent warship may not prolong its stay in a neutral port beyond the permissible time except on account of damage or stress of weather. It must depart as soon as the cause of the delay is at an end. The regulations as to the question of the length of time which these vessels may remain in neutral ports, roadsteads, or waters, do not apply to warships devoted exclusively to religious, scientific, or philanthropic purposes.—XIII, H. C. 1907.

6. A belligerent ship of war must not prolong its stay in a neutral port beyond the period legally allowed except on account of damage or stress of weather. It must depart as soon as the cause of the delay is at an end.—U. S. Ins. 1917.

#### Number of vessels.

ART. 15. In the absence of special provisions to the contrary in the legislation of a neutral power, the maximum number of warships belonging to a belligerent which may be in one of the ports or roadsteads of that power simultaneously shall be three.—XIII, H. C. 1907.

4. In the absence of special provisions to the contrary in the legislation, ordinances, or treaties of the neutral power, the maximum number of ships of war belonging to one belligerent which may be in one of the ports or roadsteads of that power simultaneously shall be three.—U. S. Ins. 1917.

#### Religious, scientific, philanthropic vessels.

7. The regulations as to the limitation of the length of time which belligerent ships of war may remain in neutral ports, roadsteads, or waters do not apply to ships of war devoted exclusively to religious, scientific, or philanthropic purposes.—U. S. Ins. 1917.

#### Order of departure.

9. The order of departure is determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of the period of stay legally allowed is admissible.—U. S. Ins. 1917.

10. A belligerent ship of war must not leave a neutral port or roadstead until 24 hours after the departure of a merchant ship flying the flag of its adversary.—U. S. Ins. 1917.

**Victualing and coaling.**

ART. 19. Belligerent warships may only revictual in neutral ports or roadsteads to bring up their supplies to the peace standard. Similarly these vessels may only ship sufficient fuel to enable them to reach the nearest port in their own country. They may, on the other hand, fill up their bunkers built to carry fuel, when in neutral countries which have adopted this method of determining the amount of fuel to be supplied. If, in accordance with the law of the neutral power, the ships are not supplied with coal within 24 hours of their arrival, the permissible duration of their stay is extended by 24 hours.—XIII, H. C. 1907.

15. Belligerent ships of war may not revictual in neutral ports or roadsteads except to complete their normal peace supply subject to the approval of the neutral authorities.—U. S. Ins. 1917.

16. Similarly these vessels can take only such fuel and ship supplies as are, in the opinion of the neutral authorities, sufficient to enable the vessels to reach the nearest port of their own country. They may, on the other hand, fill up their bunkers properly so called when in neutral countries which have adopted this method of determining the amount of fuel to be supplied.—U. S. Ins. 1917.

17. If, in accordance with the law of the neutral power, the ships are not furnished with fuel, and victuals and ship supplies and necessary repairs within 24 hours after their arrival, the lawful duration of their stay may be extended a reasonable period by the neutral authorities.—U. S. Ins. 1917.

ART. 20. Belligerent warships which have shipped fuel in a port belonging to a neutral power may not within the succeeding three months replenish their supply in a port of the same power.—XIII, H. C. 1907.

18. Belligerent ships of war which have taken fuel, victuals, and ship's supplies in a port of a neutral power can not within the succeeding three months replenish their supply in a port of the same power.—U. S. Ins. 1917.

**Repairs.**

ART. 17. In neutral ports and roadsteads belligerent warships may only carry out such repairs as are absolutely necessary to render them seaworthy, and may not add in any manner whatsoever to their fighting force. The local authorities of the neutral power shall decide what repairs are necessary, and these must be carried out with the least possible delay.—XIII, H. C. 1907.

19. In neutral ports and roadsteads belligerent ships of war can carry out such repairs only as are absolutely necessary to render them seaworthy, and may not add in any manner whatsoever to their fighting force. The authorities of the neutral power shall decide what repairs are to be made and these must be carried out with the least possible delay.—U. S. Ins. 1917.

**Submarines.**

1. All submarine vessels of any kind whatsoever, of belligerent powers, are hereby forbidden to navigate in Spanish jurisdictional waters, or to enter the ports of this nation.—Spain, Dec. 1917.

3. Neutral submarines entering Spanish waters shall do so navigating on the surface and displaying conspicuously their national flag.—Spain, Dec. 1917.

**BASE****In neutral territory, forbidden.**

ART. 5. Belligerents are forbidden to use neutral ports and waters as a base of naval operations against their adversaries, and in particular to erect wireless telegraphy stations or any apparatus for the purpose of communicating with the belligerent forces on land or sea.—XIII, H. C. 1907.

13. Belligerents are forbidden to use neutral ports and waters as a base of naval operations against their adversaries, and in particular to erect radio stations or any apparatus for the purpose of communicating with the belligerent forces on land or sea.—U. S. Ins. 1917.

ART. 8. A neutral government is bound to employ the means at its disposal to prevent the fitting out or arming of any vessel within its jurisdiction which it has reason to believe is intended to cruise, or engage in hostile operations against a power with which that government is at peace. It is also bound to display the same vigilance to prevent the departure from its jurisdiction of any vessel intended to cruise, or engage in hostile operations, which had been adapted entirely or partly within the said jurisdiction for use in war.—XIII, H. C. 1907.

ART. 18. Belligerent warships may not make use of neutral ports, roadsteads, on territorial waters for replenishing or increasing their supplies of war material or their armament, or for completing their crews.—XIII, H. C. 1907.

14. Belligerent ships of war must not make use of neutral ports, roadsteads, or territorial waters for replenishing or increasing their supplies of war material or their armament, or for completing their crews.—U. S. Ins. 1917.

**Employment of pilots.**

ART. 11. A neutral power may allow belligerent warships to employ its licensed pilots.—XIII, H. C. 1907.

3. A neutral power may allow belligerent ships of war to employ its licensed pilots.—U. S. Ins. 1917.

**INTERNMENT****General.**

ART. 24. If, notwithstanding the notification of the neutral power a belligerent ship of war does not leave port where it is not entitled to

remain, the neutral power is entitled to take such measures as it considers necessary to render the ship incapable of taking the sea during the war, and the commanding officer of the ship must facilitate the execution of such measures. When a belligerent ship is detained by a neutral power, the officers and crew are likewise detained. The officers and crew thus detained may be left in the ship or kept either on another vessel or on land, and may be subjected to the measures of restriction which it may appear necessary to impose upon them. A sufficient number of men for looking after the vessel must, however, be always left on board. The officers may be left at liberty on giving their word not to quit the neutral territory without permission.—XIII, H. C. 1907.

11. If, notwithstanding the notification of the neutral authorities, a belligerent ship of war does not leave a port where it is not entitled to remain, the neutral power is entitled to take such measures as it considers necessary to render the ship incapable of taking the sea during the war, and the commanding officer of the ship must facilitate the execution of such measures.—U. S. Ins. 1917.

#### Submarines.

2. All submarine vessels referred to in the preceding article entering Spanish jurisdictional waters for any cause whatsoever, shall be interned until the end of the war.—Spain, Dec. 1917.

### SUBMARINES IN NEUTRAL WATERS

Submarines belonging to foreign powers and equipped for use in warfare may not navigate or lie in Swedish territorial waters within 3 nautical minutes (5,556 meters) from land or from extreme outlying skerries, which are not continually washed over by the sea, under peril of being attacked by armed force without previous warning; exception is, however, made for the passage through Oresund between parallels of latitude drawn in the north through Viking Light (latitude, north  $56^{\circ} 8' 7''$  and in the south through Klagshamm Light (latitude, north  $55^{\circ} 31' 2''$ ).—Sweden, Dec. 1916.

Submarines, armed for war and belonging to belligerent powers, may not travel in or remain in Norwegian sea territory. If they violate this prohibition they subject themselves to the possibility of seizure by armed force without warning.—Norway, Dec. 1916.

The royal ordinance dated October 13, 1916, respecting the movements or stay in Norwegian territorial waters, etc., of submarine craft equipped for use in war and belonging to a belligerent power has been so amended that on and after February 6, 1917, it shall read as follows: Submarines, equipped for use in war, and belonging to a belligerent power, may not be navigated or remain in Norwegian territorial waters. Breach of this prohibition will render such

vessels liable to attack by armed force without previous warning.—Norway, Dec. 1917.

In the event of a submarine being compelled through bad weather or shipwreck to enter the forbidden area, the above regulation is not applicable, always provided that the vessel while within the mentioned area, shall remain above the surface and fly its national flag as well as the international signal indicating the cause of its presence. The vessel shall leave the area as soon as possible after the reason for its presence there has ceased to exist.—Sweden, Dec. 1916.

This prohibition does not prevent submarines by reason of adverse weather or damage from seeking Norwegian domain to save life. In such case the vessel shall, within the domain, remain above the surface and shall fly the national flag and the international signal, indicating the reason of its approach. The vessel shall leave the domain as soon as the reason which brought about its arrival has ceased.—Norway, Dec. 1916.

This prohibition shall not prevent submarines from seeking Norwegian territorial waters on account of stress of weather, or damage, or in order to save human life; when within territorial waters in such cases the vessel shall be kept at the surface and shall fly her national flag and also the international signal indicating the reason of her presence. As soon as the reasons justifying the arrival of the vessel are no longer present, she shall depart from territorial waters.—Norway, Dec. 1917.

Other submarines may not travel or remain in Norwegian sea territory, except in broad daylight in clear weather and above the surface with national flag flying.—Norway, Dec. 1916.

Submarines that are equipped for use in war and belong to a nonbelligerent foreign power, are also prohibited from navigating or remaining in Norwegian territorial waters, unless by daylight in clear weather, and in surface condition with their national flag displayed.—Norway, Dec. 1917.

Foreign submarines, while traveling in Norwegian waters, must, because of the difficulties connected with distinguishing the different kinds of submarines, bear all risks of any damage, or even destruction, as the result of confusion of the ship's character.—Norway, Dec. 1916.

#### SPECIAL REGULATIONS

ART. 27. The contracting powers shall communicate to each other in due course all laws, proclamations, and other enactments regulating in their respective countries the status of belligerent warships in their ports and waters, by means of a communication addressed to the Government of the Netherlands, and forwarded immediately

by that Government to the other contracting powers.—XIII, H. C. 1907.

22. United States naval officers must observe the regulations of neutrality announced by neutral nations.—U. S. Ins. 1917.

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## DAYS OF GRACE

**Vessels in port or entering port ignorant of war.**

ART. 1. When a merchant ship belonging to one of the belligerent powers is at the commencement of hostilities in an enemy port, it is desirable that it should be allowed to depart freely, either immediately or after a reasonable number of days of grace, and to proceed, after being furnished with a pass, direct to its port of destination or any other port indicated. The same rule should apply in the case of a ship which has left its last port of departure before the commencement of war and entered a port belonging to the enemy while still ignorant that hostilities had broken out.—VI, H. C. 1907.

ART. 36. *Atténuations au principe de la capture.*—Lorsqu'un navire public ou privé relevant d'une des puissances belligérantes se trouve, au début des hostilités, dans un port ennemi, il lui est permis de sortir librement, immédiatement ou après un délai suffisant, et de gagner directement après avoir été muni d'un laissez-passer, son port de destination ou tel autre port qui lui sera désigné. Il en est de même du navire ayant quitté son dernier port de départ avant le commencement de la guerre et entrant dans un port ennemi sans connaître les hostilités.—Institut, 1913.

5. Vous laisserez librement passer les navires de commerce ennemis qui auront pris des cargaisons à destination de France ou pour compte français antérieurement à la déclaration de guerre. Vous délivrerez un sauf-conduit à ces navires qui pourront librement se rendre dans le port français que vous leur désignerez et y débarquer leur chargement. Mais, si le lieu où vous avez rencontré lesdits navires et la route suivie par eux vous permettent de conclure qu'ils ont manifestement dévié de la route qu'ils devaient suivre d'après leurs papiers de bord, sans qu'ils y soient contraints par les circonstances de leur navigation, vous les capturerez.—Fr. Ins. 1912

ART. 6. Exempt from seizure, are: (e) Enemy merchant vessels which at the beginning of hostilities are making passage from a German or allied port to their destination or to some other port designated for them and are provided with a pass; unless they have departed from their prescribed route without sufficient justification.—Ger. O. 1909.

ART. 1. A vessel of the German Empire which is, at the time of the enforcement of this ordinance, staying at a port or anchorage within the Japanese Empire or within districts governed by Japan, may, by September 5, 1914, land her cargo at the port or anchorage, and may finish business which was negotiated with good faith before the opening of the war and is being actually transacted, and requesting the Japanese authorities for a passport and obtaining it, may sail direct for the port of her destination or the port designated in the passport.—Jap. Dec. Aug. 24, 1914.

ART. 2. A German vessel which has left the last port of call before August 23, 1914, and arrived at a port or anchorage within Japan or districts governed by Japan, not knowing the fact of the opening of war, may immediately land her cargo at the port or anchorage and may take in goods which are not contraband of war, and may finish her transactions, and requesting the Japanese authorities for passport and obtaining it, may sail direct to the port of her destination or the port designated in the passport. In this case the vessel must sail within two weeks from her arrival at the port or anchorage at a date to be designated by the Japanese authorities.—Jap. Dec. Aug. 24, 1914.

ART. II. A term of five days from the date of the publication of the present royal decree in the Madrid Gazette is allowed to all United States ships anchored in Spanish ports, during which they are at liberty to depart.—Spain, Ins. 1898.

#### Detention, force majeure.

ART. 2. A merchant ship unable, owing to circumstances of force majeure, to leave the enemy port within the period contemplated in the above article, or which was not allowed to leave, can not be confiscated. The belligerent may only detain it, without payment of compensation, but subject to the obligation of restoring it after the war, or requisition it on payment of compensation.—VI, H. C. 1907.

ART. 37. Le navire public ou privé qui, par suite de circonstances de force majeure, n'aurait pu quitter le port ennemi pendant le délai visé à l'article précédent, ne peut être confisqué. Le belligérant peut seulement le saisir moyennant l'obligation de le restituer après la guerre sans indemnité, ou le réquisitionner moyennant indemnité.—Institut, 1913.

#### Detention, with compensation.

ART. 4. A German vessel which, on account of force that can not be resisted, has not been able to leave a port or an anchorage of Japan or of districts governed by Japan within the period provided in article 1 or 2, or a German vessel which was not permitted to leave, may be detained under the obligation that it shall be returned after the war without paying any damages, or may be requisitioned under the obligation that damages shall be paid.—Jap. Dec. Aug. 24, 1914.

**Vessels on high seas.**

ART. 3. Enemy merchant ships which left their last port of departure before the commencement of the war, and are encountered on the high seas while still ignorant of the outbreak of hostilities can not be confiscated. They are only liable to detention on the understanding that they shall be restored after the war without compensation, or to be requisitioned, or even destroyed, on payment of compensation, but in such cases provision must be made for the safety of the persons on board as well as the security of the ship's papers. After touching at a port in their own country or at a neutral port, these ships are subject to the laws and customs of maritime war.—VI, H. C. 1907.

ART. 38. Les navires publics ou privés ennemis, qui ont quitté leur dernier port de départ avant le commencement de la guerre et qui sont rencontrés en mer ignorants des hostilités ne peuvent être confisqués. Ils sont seulement sujets à être saisis, moyennant l'obligation de les restituer après la guerre sans indemnité, ou à être réquisitionnés, ou même à être détruits, à charge d'indemnité et sous obligation de pourvoir à la sécurité des personnes ainsi qu'à la conservation des papiers de bord. Néanmoins, au cas où ces navires seraient rencontrés en mer avant l'expiration d'un délai suffisant à accorder par le belligérant, la saisie ne peut être opérée. Les navires ainsi rencontrés sont libres de gagner leur port de destination ou tel autre port que leur serait désigné. Après avoir touché à un port de leur pays ou à un port neutre, ces navires sont soumis au droit de capture. Institut, 1913.

6. Les navires de commerce ennemis qui ont quitté leur dernier port de départ avant le commencement de la guerre, et qui sont rencontrés en mer ignorant des hostilités, ne peuvent être capturés. Si la réussite des opérations engagées l'exige, lesdits navires sont sujets à être saisis, moyennant l'obligation de les restituer après la guerre sans indemnité, ou à être réquisitionnés ou même à être détruits, à charge d'indemnité et sous l'obligation de pourvoir à la sécurité des personnes ainsi qu'à la conservation des papiers de bord.—Fr. Ins. 1912.

ART. 3. A German vessel which has left a port or an anchorage in Japan or in districts governed by Japan in accordance with the provisions of the preceding two articles, shall not be captured while she is en route to the port of her destination or the port designated in the passport. However this rule does not apply to a vessel which has touched at another port or anchorage of Japan or of districts governed by Japan, or a port or an anchorage of the country to which the vessel belongs, or of districts governed by that country.—Jap. Dec. Aug. 24, 1914.

ART. 5. A German vessel which has left the last port of call before the opening of war and which does not know the fact of the opening of war when she encounters Japanese men of war, shall not be captured. A vessel coming under the preceding paragraph may be detained under the obligation that she shall be returned after the war without paying damages, or may be requisitioned or destroyed under the obligation that damages shall be paid, safety of persons on board guaranteed and ship's papers preserved. A vessel coming under paragraph 1 shall be treated according to rules and customs of maritime warfare after she has touched at a port of her own country or a port of a neutral country.—Jap. Dec. Aug. 24, 1914.

#### Cargo.

ART. 4. Enemy cargo on board the vessels referred to in articles 1 and 2 is likewise liable to be detained and restored after the termination of the war without payment of compensation, or to be requisitioned on payment of compensation, with or without the ship. The same rule applies in the case of cargo on board the vessels referred to in article 3.—VI, H. C. 1907.

ART. 6. Si, en particulier, la cargaison desdits navires est de nature à justifier leur saisie et leur mise sous séquestre pendant la durée des hostilités dans les conditions ci-dessus spécifiées, et s'il ne vous est pas possible de les escorter jusqu'à un port français ou allié sans que, pour cela, leur destruction soit indispensable, vous leur ordonnerez, en inscrivant cet ordre sur leur journal de bord, de se rendre eux-mêmes, pour être mis sous séquestre, dans tel port français ou allié que vous fixerez, et sous telles conditions de route et de vitesse que vous fixerez également. Vous leur spécifierez alors qu'ils seront capturés s'ils sont ensuite rencontrés faisant route pour une destination différente ou n'ayant pas observé les conditions de votre ordre.—Fr. Ins. 1912.

10. Les merchandise ennemis se trouvant à bord des navires ennemis visés aux paragraphes 5, 6, et non susceptibles d'être capturés, sont également sujettes à être saisies et restitués après la guerre sans indemnité, ou à être réquisitionnées moyennant indemnité conjointement avec le navire ou séparément.—Fr. Ins. 1912.

ART. 6. The enemy goods on board a vessel coming under article 1, article 2, article 4, or the preceding article, may be detained under the obligation that they shall be returned after the war without paying damages, or may be requisitioned together with, or separate from, the vessel under the obligation to pay damages.—Jap. Dec., Aug. 24, 1914.

9. Vous capturerez *dans tous les cas* les navires de commerce ennemis dont la construction indique qu'ils sont destinés à être transformés en bâtiments de guerre, ou qui sont portés sur les listes

officielles de leur Gouvernement comme destinés à être transformés en bâtiments de guerre.—Fr. Ins. 1912.

ART. 7. This ordinance is not applicable to a German vessel of which it is very clear from its construction that it can be converted into a man-of-war.—Jap. Dec., Aug. 24, 1914.

#### Limits of exemption.

7. Vous capturerez tous navires de commerce ennemis qui, dans les cas de paragraphes 5 et 6 précédents, n'auraient pas strictement observé les ordres donnés et préalablement inscrits à leur journal de bord par le commandant ou le délégué autorisé du commandant d'un navire de guerre français.—Fr. Ins. 1912.

#### Reciprocity.

ART. 8. In case Germany gives to Japanese vessels and goods treatments different from those prescribed in this ordinance, the whole or part of this ordinance may not be enforced.

*Supplementary clause.*—This ordinance takes effect from the date of promulgation.—Jap. Dec., Aug. 24, 1914.

#### Lack of papers.

8. Vous capturerez *dans tous les cas* tous navires de commerce ennemis qui ne pourraient vous présenter des papiers de bord complètement en règle et intacts ou que vous soupçonneriez spécialement d'avoir falsifié soit leur journal de bord, soit tout autre document relatif à leur route.—Fr. Ins. 1912.

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## VISIT AND SEARCH

### TIME, PLACE, AND PURPOSE

42. The belligerent right of visit and search may be exercised outside of neutral jurisdiction upon private vessels, unless under convoy, after the beginning of war in order to determine their nationality, the port of destination and departure, the character of their cargo, the nature of their employment, or other facts which bear on their relation to the war.—U. S. Ins. 1917.

17. Upon the declaration of war, military operations at sea begin from the time designated by the Imperial Government. In case of a truce these operations are limited according to the conditions of the truce, and upon the conclusion of peace they cease from the time the vessels of the fleet receive the proper notification of the conclusion of a truce or peace.—Rus. Reg. 1895.

1. Vessels of the imperial war fleet, acting in accordance with the regulations on maritime prizes, are guided, with regard to the method of stopping, examining, and detaining merchant vessels, as well as the conducting into port and surrender of detained vessels

and cargoes, by the following rules, besides the declarations and other instructions issued by the Government in case of war.—Rus. Ins. 1900.

85. Vous avez le droit de visiter tous les navires de commerce que vous rencontrerez. Vous ne visiterez les paquebots postaux qu'en cas de nécessité, ainsi qu'il est dit à l'Article XVII.—F. Ins. 1912.

12. The right of visit shall be exercised by the warships toward vessels of the following classes: (a) Ships flying the flag of the Republic of China or neutral flags but being suspected of its enemy character. (b) Vessels of the Republic of China being suspected of holding commercial intercourse with the enemy countries without the permission of the Government. (c) Ships of the Republic of China or of other neutral countries being suspected of having contraband of war or enemy combatants on board. (d) Ships of the Republic or other neutral countries being suspected of having run the blockade.—China, Reg. 1917.

1. (P. O. 1.) War on commerce according to prize law may only be carried on against enemy or neutral merchant ships by commanding officers of war vessels. Officers commanding prizes do not possess this right.—Ger. P. C. 1916.

2. Prize law is enforced by holding up a ship, searching her or bringing her into port for examination; capture. The captured ship may in certain cases be destroyed. See articles 23, 33, and 34. All ships met with may be held up and searched; neutral Government vessels and neutral vessels escorted by their own war vessels are always exempt from prize law.—Ger. P. C. 1916.

37. Vessels not open to suspicion may be held up and searched, but wherever they are encountered they must be allowed a free passage to their port of destination, when once it has been established that they are not open to suspicion. Should there be in any particular case some well founded suspicion that the certificates mentioned in article 38 below have been falsified or are being misused the ship is to be brought into port. Should this be impossible, the certificate produced is to be removed, together with those ship's and cargo papers from which the suspected falsification or misuse may afterwards be proved. Such a ship may only be destroyed if the commanding officer has complete proof of the falsification and if the ship can not be brought in.—Ger. P. C. 1916.

ART. 1. H. I. J. M.'s ships are authorized in time of war to visit, search, and capture vessels according to these regulations.—Jap. Reg. 1904.

ART. 1. Japanese men-of-war are authorized to make captures at sea and to take other hostile actions and all measures necessary for

achieving the object of war in accordance with the provisions of this order, other regulations and treaties, and, where there are no provisions, the principles of international law.—Jap. Reg. 1914.

ART. 1. During an armistice this right of capture is suspended only when expressly agreed.—Ger. O. 1909.

4. The purpose of visiting and searching of a merchant ship is to determine: (a) To what nationality the ship belongs. (b) Whether there is contraband on board. (c) Whether it (the ship) is assisting the enemy by unneutral service. (d) Whether it has been guilty of a breach of blockade.—Ger. O. 1909.

86. Toutefois, suivant les circonstances, notamment suivant les parages où vous vous trouvez, ou suivant l'éloignement du théâtre des opérations, il peut arriver que vous ayez des motifs de supposer que la visite ne peut entraîner aucune saisie. Dans ce cas, l'exercice du droit de visite peut n'être qu'une vexation inutile dont il est préférable de s'abstenir.—Fr. Ins. 1912.

95. L'examen de ces pièces vous renseignera sur la nationalité du navire, sur sa destination et sa route, ainsi que sur la nature et la destination apparente du chargement.—Fr. Ins. 1912.

ART. V. In order to capture the enemy's ships, to confiscate the enemy's merchandise under their own flag, and contraband of war under any flag, the royal navy, auxiliary cruisers, and privateers, if and when the latter are authorized, will exercise the right of visit on the high seas and in the territorial waters of the enemy, in accordance with international law and any regulations which may be published for the purpose.—Spain, Dec. 1898.

1. Right of visit can only be exercised by belligerents; hence it can evidently be only resorted to during international conflicts by one or other of the States at war, as also during internal civil or insurrectionary wars, when one or more foreign powers have recognized the insurrectionary party as belligerents. In such circumstances, right of visit can be exercised by the mother country, but it is restricted to the merchant vessels of the nation or nations who have given this recognition, and who are for such reason in the position of neutrals.—Spain, Ins. 1898.

ART. XXXII. Any private vessel regarding which there is suspicion which would justify her capture shall be visited and searched no matter of what national character she is.—Jap. Reg. 1904; art. 136, 1914.

ART. XIX. If any vessel is suspected of having in her cargo contraband of war the captain of the war vessel shall inspect the bill of lading, clearance, and other papers, interrogate the crew of the vessel, and ascertain her destination.—Jap. Reg. 1904.

### EXERCISE OF—GENERAL

1. The captains of H. M. ships during a war have the right, in conformity with the following instructions, to visit enemy or neutral vessels, to search them, and to seize them, as well as the enemy and neutral goods found on board, and in exceptional cases to destroy them.—Ger. O. 1909.

9. To carry out the instructions contained in the preceding articles, naval commanding officers, whenever it is judged useful, shall proceed to visit merchant ships on the high sea or in belligerent waters, or may request them to proceed to the nearest port to undergo visit there.—Italy, P. R. 1915.

### VESSELS EXERCISING

#### **Definition.**

*Title note.*—Attention is directed to the following provisions of the laws of the United States :

The word “vessel” includes every description of water craft or other artificial contrivance used, or capable of being used, as a means of transportation on water. (Sec. 3, Revised Statutes.) Vessels registered pursuant to law and no others, except such as shall be duly qualified according to law for carrying on the coasting or fishing trade, shall be deemed vessels of the United States, and entitled to the benefits and privileges appertaining to such vessels; but no such vessel shall enjoy such benefits and privileges longer than it shall continue to be wholly owned by a citizen or citizens of the United States, or a corporation created under the laws of any of the States thereof \* \* \* (Sec. 4131, Rev. Stat., as amended by act of June 26, 1884; sec. 1, 23 Stat. L., p. 23, and act May 28, 1896; secs. 1 and 3, 29 Stat. L., pp. 188, 189.)

The words “vessel of the United States,” wherever they occur in this chapter, shall be construed to mean a vessel belonging in whole or in part, to the United States, or any citizen thereof, or any corporation created by or under the laws of the United States, or of any State, Territory, or District thereof. (Sec. 310. Ch. XII, Piracy and Other Offenses upon the Seas, Penal Code, Mar. 4, 1909, 35 Stat. L., p. 1148.)

—U. S. Ins. 1917.

*Note to preamble.*—“Sont désignés comme navires publics tous navires autres que les bâtiments de guerre qui, appartenant à l’Etat ou à des particuliers, sont affectés à un service public et se trouvent sous les ordres d’un fonctionnaire dûment commissionné de l’Etat.”—Institut, 1913.

**ART. 2. Bâtiments de guerre.**—Font partie de la force armée d’un Etat belligérant et sont, dès lors, soumis comme tels aux lois de la guerre maritime: 1. Tous bâtiments appartenant à l’Etat qui, sous la direction d’un commandant militaire et montés par un équipage militaire, portent avec autorisation le pavillon et la flamme de la marine militaire. 2. Les navires transformés par l’Etat en bâtiments de guerre conformément aux articles 3 à 6.—Institut, 1913.

**ART. 2. Public vessels** are the vessels of war as well as those employed in the service of the State and under State control. Vessels which are otherwise the property of the State will be similarly regarded.

The necessary distinctive features of vessels of war are: War flag (together with the pennant, as a rule), commander commissioned by the State, whose name appears in the navy list, and military disciplined crew. (See arts. 2 and 4 and 6 of the Convention VII of the second Hague Conference.)—Ger. O. 1909.

2. In accordance with the position laid down in the preceding article, ships of war and merchant vessels of the belligerents, when legally armed either as auxiliary cruisers of their navy or as privateers, if and when they are authorized, may in their own territorial waters, or those under the jurisdiction of the enemy, or in the open seas, detain such merchant vessels as they meet with in order to verify the legitimacy of their flag, and, if neutrals, and proceeding to a port of the other belligerent, the nature of their cargo.—Spain, Ins. 1898.

15. The right of stopping, examining, and detaining hostile or suspicious vessels and cargoes belongs to the vessels of the imperial "war" navy. The vessels of the merchant marine are allowed this right only in the following cases: (1) When attacked by hostile or suspicious vessels and (2) when rendering assistance to Russian or allied vessels which have been attacked. Vessels and cargoes detained according to this provision by merchant vessels must be delivered by the latter into the custody of the authorities indicated in articles 23 and 24, with the right, in the case of confiscation of the vessels and cargoes in question as prizes, to demand the reward established for their detention.—Rus. Reg. 1895.

NOTE.—The limitations indicated in this article for merchant vessels do not extend to cases for which special rules may be established according to article 4 of the present regulations.

ART. LII. The captain of an imperial man-of-war may chase a vessel without hoisting the ensign of the imperial navy or under false colors. (But before giving the vessel the order to stop he must display the ensign of the imperial navy.)—Jap. Reg. 1904; art. 139, 1914.

1. Chinese warships during the time of war with the enemy shall have the right to visit, search, and capture merchant vessels at sea in accordance with the provisions of these regulations.—China, Reg. 1916.

#### PROCEDURE

ART. 32. *Navires publics et navires privés: Arrêt, visite et recherches.*—Tous navires autres que ceux de la marine de guerre, qu'ils appartiennent à l'Etat ou à des particuliers, peuvent être sommés par un bâtiment de guerre belligérant de s'arrêter pour qu'il soit procédé, à leur bord, à une visite et à des recherches.

Le bâtiment de guerre du belligérant, pour inviter le navire à s'arrêter, tirera un coup de canon de semonce à poudre et, si cet

avis n'est pas suffisant, il tirera un projectile dans l'avant du navire. Auparavant, ou en même temps, le bâtiment de guerre hissera son pavillon au-dessus duquel, en temps de nuit, un fanal sera placé. Le navire répond au signal en hissant son propre pavillon et en s'arrêtant aussitôt; dans ce cas, le bâtiment de guerre enverra au navire arrêté une chaloupe montée par un officier accompagné d'un nombre d'hommes suffisant, dont deux ou trois seulement se rendront avec l'officier à bord du navire arrêté.

La visite consiste en premier lieu dans l'examen des papiers de bord.

Si les papiers de bord sont insuffisants ou ne sont pas de nature à exclure les soupçons, l'officier qui a opéré la visite est en droit de précéder à des recherches sur le navire, et il doit requérir à cet effet le concours du capitaine.

La visite des paquebots-poste, comme il est dit à l'article 53, être effectuée avec tous les ménagements et toute la célérité possibles.

Les navires convoyés par un bâtiment de guerre neutre ne sont soumis à la visite que dans la mesure des règles relatives aux convois.—Institut, 1913.

26. Detailed rules concerning the method of stopping, examining, and detaining vessels, as well as concerning the conducting of detained vessels and cargoes into port and their surrender are contained in instructions approved by the admiralty board.—Rus. Reg. 1905.

#### Sighting of vessel.

ART. 137. When the commanding officer of a ship of war finds a suspicious vessel, he shall order an officer under him to take record of the following facts:

(1) The time and position when the vessel was first sighted, distance away, relative bearing and relative course of the vessel as regards the ship of war; when another Japanese ship of war or one of an allied power is in sight, the distance, bearing, and course of this ship of war in relation to the vessel.

(2) The course of the vessel while under pursuit; if another Japanese ship of war or that of an allied power are in sight, the time, bearing, and course the same ship of war takes, and extent of pursuit made in common by the two ships of war.

(3) When the vessel is overtaken, the time and position; if another Japanese ship of war or that of an allied power is in sight, the bearing, distance, and course of the said ship of war; if another Japanese ship of war or that of an allied power captures the vessel, the bearing and distance of his own ship and her course.

—Jap. Reg. 1914.

#### Summons.

44. Subject to any special treaty provisions, the following procedure is directed: Before summoning a vessel to lie to, a ship of war must hoist her own national flag. The summons shall be made by

firing a blank charge (*coup de semonce*), by other international signal, or both. The summoned vessel, if a neutral, is bound to stop and lie to, and she should also display her colors; if an enemy vessel, she is not so bound and may legally even resist by force, but she thereby assumes all risks of resulting damage.—U. S. Ins. 1917.

88. *Semonce*.—Lorsque vous serez déterminé à visiter un navire, vous l'avertirez l'abord en tirant un coup de canon de semonce à poudre et en arborant votre pavillon. A ce signal, le navire est tenu aussi d'arborer ses couleurs et de s'arrêter pour attendre votre visite.—Fr. Ins. 1912.

82. If the captain intends to visit a ship, he will cause her to stop by means of signals and howling of siren. Ensign or pennant are to be displayed not later than the time of this signal; by night the first is to be illuminated. During the pursuit the display of the war ensign is not necessary, the flying of any merchant flag desired is permissible.—Ger. O. 1909.

4. If the ship is to be held up, she should be ordered to stop by signals and by blowing the siren. Ensign and pennant are to be hoisted at latest when the signal to stop is given. Prior to this the naval ensign need not be flown, and the display of a mercantile flag or a foreign naval ensign is permissible. The use of a privileged distinguishing mark, such as the flag of the Geneva convention, white flag, or signals of distress is not allowed.—Ger. P. C. 1916.

4. The following is the method of exercising right of visit: (a) Notification to the vessel to be visited to lay to and state its nationality is made by the visiting vessel hoisting her national flag and firing a blank shot, a signal upon which the merchant vessel is bound to hoist the flag of the nation to which it belongs and lay to.—Spain, Ins. 1898.

2. In order to stop a vessel encountered it is necessary to approach her, to hoist one's flag, and to fire a blank cannon shot in the direction of the vessel encountered. Besides, a signal may be raised according to the international code. In order to stop a vessel at night, upon firing a blank shot it is necessary to have the gaff lights and the distinctive (regulation) lights open.—Rus. Ins. 1900.

#### *Approach.*

91. Dès que la navire semoncé s'est arrêté, vous lui envoyez une embarcation. Aucune règle précise ne peut être fixée au sujet de la distance à laquelle doit s'arrêter le croiseur pendant la visite. Vous agirez suivant les circonstances et l'état de la mer.—Fr. Ins. 1912.

91. (Correction, Apr. 1, 1916.) *By day*.—As soon as the summoned vessel has stopped, you will lower a boat to the sea and you will raise a flame of great distance, at the same time firing a rocket. At this signal, the vessel ought to maneuver in order to approach the boat

which you have lowered to the sea, whatever may be your own maneuver and whether or not you remain near the boat. If the summoned vessel does not obey this signal frankly and immediately, you will consider it a suspect and you will be constrained to compel it by force.

91. *By night.*—You will give the order to the summoned vessel to approach the boat which you have lowered to the sea, by firing two red stars. The boat will be, so far as possible, illuminated by a search light. If the state of the sea does not permit of coming along side, you will fire two green stars. This signal will signify an order to the vessel to remain in place until day.—Fr. Ins. 1916.

During the continuance of the present war, His Imperial Majesty's ships shall, in visiting and searching merchant ships, follow the special procedure mentioned hereunder:

1. *By day.*—The warship will hoist a large-sized pennant at a conspicuous position and fire two rockets. This is to signify that the merchant ship is to close the boat lowered by the warship, whether the warship remains near the boat or not.

2. *By night.*—The warship will fire two port fires at a conspicuous position. This is to signify that the merchant ship is to close the boat lowered by the warship. The warship shall, where possible, illuminate the boat by a searchlight. When the weather precludes the lowering of a boat, the warship will likewise fire two port fires, which will be the signal for the merchant ship to lie to till daylight.

3. In the event of the merchant ship disregarding the orders given under the preceding two clauses, it may be fired on by the warship.

4. For the time being, if it is found that the meaning of the signals above mentioned is not understood, His Imperial Majesty's ships will communicate with merchant ships in the international code of signals. The procedure hitherto followed in other respects remains unchanged.—Jap. Ins. April 28, 1916.

The following alterations in the instructions issued on April 28, 1916, respecting the boarding of merchant ships will come into effect from May 20, 1916:

1. In the clause respecting the signals by day for ordering the merchant ship to close the boat lowered by the warship, the words "two rockets" to be altered to "a rocket."

2. The entire clause respecting signals by night to be struck out.—Jap. Ins. May 17, 1916.

(c) The visiting vessel will place herself at such distance as her commander or captain may think convenient from the vessel to be visited, according to circumstances of wind, sea, current, or the sus-

picion inspired by the said vessel; and if these circumstances make it advisable for the boat about to make visit to approach on the windward side and go to leeward on returning, there is no reason why she should not do so. But if, by existing treaties between the nations to which the vessels respectively belong, the distance to be kept is specified, such a clause of conventional law shall be respected, if the circumstances of wind, sea, or current above mentioned permit.—Spain, Ins. 1898.

6. The imperial cruiser approaches the halted vessel as closely as possible; caution, however, should be observed.

NOTE.—The undesirable consequences of a collision should be borne in mind. The vessel may prove to be an enemy's vessel, and hostile acts and a desire to injure the cruiser by collision are to be expected.—Rus. Ins. 1900.

#### Course of vessel.

19. Inspection shall be made along the original course of the ship concerned.—China, Reg. 1917.

#### Boarding.

46. When the summoned vessel has brought to, the ship of war shall send a boat with an officer to conduct the visit and search. If practicable, a second officer should accompany the officer charged with the examination. There may be arms in the boat, but the boat's crew shall not have any on their persons. The officer (or officers), wearing side arms, may be accompanied on board by not more than two unarmed men of the boat's crew.—U. S. Ins. 1917.

92. *Visité.*—Un officier en armes, accompagné de deux ou trois hommes au plus, monte à bord du navire à visiter. Si vous êtes seul officier à votre bord, la visite pourra être effectuée par un officier-marinier.—Fr. Ins. 1912.

84. When the ship has stopped, the captain will send on board an officer, accompanied by a second officer and not more than three men as witnesses and for assistance, in an unarmed boat, manned with usual crew and carrying the flag. The officers of the boarding party will carry side arms, the men no arms. The remainder of the boat's crew will have their small arms in the boat.—Ger. O. 1909.

6. If the ship has stopped, a boarding party consisting of two officers and not more than two or three men is, if possible, to be sent on board. Officers go on board armed, while the men's arms are left in the boat. The boarding party can also be constituted so as to form a prize crew.—Ger. P. C. 1916.

5. It is desirable that several relays of officers and men be designated beforehand for the task of making examinations. The officers and men sent to make the examinations should be armed with revolvers. It is useful to agree beforehand upon several simple

conventional signals (with an oar, handkerchief, flag, etc.). From the moment the chase is begun the officers designated for the examination prepare their men and ascertain the latitude and longitude of the imperial vessel.—Rus. Ins. 1900.

4. For the purpose of making examination there are appointed an adequately experienced officer and several men of the crew, among whom it is useful to include the mate, etc. If the personnel present enable it to be done, two officers are designated who are more or less acquainted with foreign languages.—Rus. Ins. 1900.

7. Having lowered a boat with the officers and men, the imperial cruiser remains in such a position during the continuance of the examination as to be able to see its boat at all times and to observe everything going on in the vessel undergoing examination. The guns must be loaded and the gun captains at their quarters.—Rus. Ins. 1900.

8. While proceeding on board the halted vessel, the name of the vessel and the port for which it is bound are observed while on the cruiser's boat. An officer accompanied by two enlisted men boards the vessel. If two officers are designated for the examination they go on board with one enlisted man.

NOTE.—The remaining enlisted personnel proceeds on board only after examination of the documents has been completed and that of the whole vessel is begun. The number of sailors going on board depends upon the size of the vessel and the discretion of the officer (for instance, four, six, and more sailors).—Rus. Ins. 1900.

#### Boarding, functions of crew.

ART. 9. The junior officer remains on the upper deck during the whole time and is not allowed to descend below. He is obliged to observe everything going on on the deck of the vessel under examination, and to watch the cruiser's boat and the signals from his ship. He is assisted by an enlisted man who has come on board. The examination of the documents and of the vessel is performed by the senior of the officers detailed. In case of visitation by one officer the duties of junior officer are performed by the senior of the two enlisted men who have gone on board simultaneously with the officer.—Rus. Ins. 1900.

85. If the weather makes boarding impossible, the captain will prescribe a given course to the ship, in case he has serious suspicion of her, and will follow himself, until it is possible to carry out the visit.—Ger. O. 1909.

10. Should anything, for example bad weather, prevent a boarding party from being sent on board, a suspect ship is to be brought into port without further procedure. Should it be necessary at the same time to declare such a ship as captured, she must be ordered to haul down her flag and to follow the war vessel.—Ger. P. C. 1916.

11. It must be clearly stated in the prize report whether the ship has been captured or merely brought into port for search; in the latter case the reason must be given, for example, whether search was impossible for military reasons or owing to the nature of the cargo, weather, etc.—Ger. P. C. 1916.

(d) The visiting vessel will send to the merchant vessel a boat with an officer, who will effect the visit in question, under a verbal commission from his commanding officer; said officer may board the merchant vessel in company with two or three of the crew of the boat, but it will be left to his discretion whether he shall do so or go alone.—Spain, Ins. 1898.

ART. LIII. The captain of an imperial man-of-war shall in no case order the vessel to be visited or searched to send to his ship her boat, crew, or papers.—Jap. Reg. 1904.

ART. LV. On the vessel's stopping, the captain of the man-of-war shall send a boat to her with a boarding officer and his assistant. The crew of the boat shall not wear arms, but they may be kept in the boat. When boarding the vessel the boarding officer may take with him, if he deems it necessary, not more than two of the boat's crew.—Jap. Reg. 1904.

14. When a vessel is brought to a standstill in obedience to the order of the warship, the captain of the latter should send a witness, an officer and two sailors to proceed to the vessel to conduct the visit.—China, Reg. 1917.

#### Manner.

43. The right should be exercised with tact and consideration, and in strict conformity with treaty provisions, where they exist.—U. S. Ins. 1917.

101. Toutes ces opérations de visite doivent être faites avec la plus grande courtoisie et modération, et, s'il s'agit de paquebots postaux, avec toute la célérité possible.—Fr. Ins. 1912.

ART. 4 (continued). The visit and search shall be made only when the captain believes that results will follow. All measures are to be carried out in a form whose observance, even against the enemy, will comport with the dignity of the German Empire, and with a regard for neutrals conformable to the usages of international law and German interests.—Ger. O. 1909.

81. The captain must as much as possible avoid diverting a ship under a neutral flag from her course during the visit and search; he shall especially endeavor to cause the ship the least possible inconvenience; especially will he in no circumstances require the master to come on board the man-of-war, or that a boat, men of the crew, the ship's papers, etc., be sent on board.—Ger. O. 1909.

9. The visit is not an act of jurisdiction on the part of the belligerent; it is a natural means of legitimate defense allowed by international law, lest fraud and bad faith should assist the enemy. This right should therefore be exercised with the greatest modification by the belligerent, special care being taken to avoid causing the neutral any extortion, damage, or trouble that is not absolutely justifiable. In consequence of this, the detention of the ship visited should always be as short as possible, and the proceedings restricted as far as they can be, their exclusive object being, as explained, for the belligerent to ascertain the neutrality of the ship, and in case of its neutrality (if bound for a port of the enemy) the inoffensive and neutral description of its cargo. It is not necessary, therefore, to demand during the visit any other documents than those proving these two conditions, for what the belligerent requires is to prevent any damage, favoring, or assisting the enemy; to prevent assistance and help being furnished to them that may contribute directly to the prolongation of the war, and not to be assured that all ships belonging to neutral powers are provided with all the documents required by the laws of their country.—Spain, Ins. 1898.

14. The commander of the vessel carrying out the visit and the officer commissioned to make the visit, the former in ordering and the latter in carrying it out, should act without prejudice to the good faith of the neutral being visited, and without losing sight of the consideration and respect that nations owe to one another.—Spain, Ins. 1898.

#### Courtesy.

10. The dealings of the officers and men with their master, crew, and passengers should be marked by courtesy and fully in accordance with the dignity of the military profession. In case resistance is shown by the halted vessel to the carrying out the examination, it is subject to capture.—Rus. Ins. 1900.

ART. LI. In visiting or searching a vessel the captain of the man-of-war shall take care not to divert her from her original course more than necessary and as far as possible not to give her inconvenience.—Jap. Reg. 1904.

ART. 148. A boarding officer in making visit or search shall observe courtesy.—Jap. Reg. 1914.

#### Examination of papers.

47. The boarding officer shall first examine the ship's papers in order to ascertain her nationality, ports of departure and destination, character of cargo, and other facts deemed essential. If the papers furnish conclusive evidence of the innocent character of vessel, cargo, and voyage, the vessel shall be released; if they furnish prob-

able cause for capture she shall be seized and sent in for adjudication.—U. S. Ins. 1917.

93. Avant tout, l'officier visiteur doit procéder à l'examen des papiers de bord.—Fr. Ins. 1912.

ART. 104. The commanding officer of a man-of-war shall examine necessary ship's papers with a view to obtaining information as to the nationality of the vessel, the place she left, her destination, her route and duty, and character, kinds, and destination of her cargo, and other necessary matters.—Jap. Reg. 1914.

ART. 143. The boarding officer shall first examine the ship's papers.—Jap. Reg. 1914.

96. Éventuellement, vous pourrez demander à vous faire présenter : Le journal des machines ; la police d'assurance du navire et celle des marchandises, si elles sont à bord ; le registre des télégrammes reçus et envoyés si le navire est muni de T. S. F.—Fr. Ins. 1912.

100. Les papiers de bord font preuve complète de l'itinéraire du navire ainsi que du lieu de déchargement des marchandises, à moins que ce navire ne soit rencontré ayant manifestement dévié de la route qu'il devait suivre d'après ses papiers de bord et sans pouvoir justifier d'une cause suffisante de cette déviation.—Fr. Ins. 1912.

86. Usually in this, the officer goes directly on board, accompanied only by the officer sent with him, and asks politely, but definitely, for the ship's papers to be produced ; if the master declines, he orders their production. A further refusal justifies the capture of the ship.—Ger. O. 1909.

(e) The visiting officer will inform the captain of the merchant vessel that, under commission from the commander of the Spanish ship of war, or of the auxiliary cruiser (here follows name of ship of war or auxiliary cruiser), or from the captain of the privateer (here follows name of vessel), he intends to effect a visit and will request him to produce his sailing papers, or official document which takes their place, in proof of the nationality of the vessel therein stated being that of the flag which he has hoisted, and to show the port to which the vessel is proceeding. Should the first point be satisfactorily proved, and should the port of destiny prove to be a neutral one, the visit is thereby concluded. But should the vessel be proceeding to a port belonging to the enemy of the nation to which the visiting vessel belongs, the officer will ask the captain of the merchant vessel for the documents in which the nature of the cargo is stated, in order to ascertain if there be contraband of war ; should there be none, the visit is definitely concluded, and the neutral vessel is at liberty to proceed on its voyage ; but should there be contraband, its capture is proceeded with, but no search may, in these circumstances, be made.—Spain. Ins. 1898.

11. The examination is begun by asking the master: (a) To give the name and nationality of his vessel. (b) To name the port of destination and whence the vessel departed. (c) To exhibit the log book and all documents regarding the vessel and cargo. A list of the principal ship's papers carried on board the merchant vessels of various nations is appended hereto. (Appendix I.)—Rus. Ins. 1900.

12. In proceeding to the examination of the papers the officer pays especial attention to the log book, endeavoring to ascertain all circumstances of sailing, the place according to the chart where the master considers himself to be, and the last entries made in the log book.—Rus. Ins. 1904.

13. In examining the documents regarding the nationality of the vessel the officer observes the port of registry, the registry number, the names and nationality of the owners, the place and time of construction of the vessel, and also as to whether it was not bought from subjects of the enemy after the declaration of war for the purpose of covering enemy's property.—Rus. Ins. 1900.

14. In examining the documents relating to the cargo, the officer determines the kind and quantity of the goods, the places whence and whither they are being sent, the names and nationality of the shippers and consignee of the cargo. In this connection it is important to ascertain whether there are not articles contraband of war among the goods, and to whom the cargo belongs—whether to hostile or neutral subjects.—Rus. Ins. 1900.

15. In examining the documents regarding the composition of the crew and the passengers the officer should ascertain the nationality and occupation of these persons, endeavoring to determine whether there are not hostile military persons among the passengers, and who among the crew may be detained in accordance with article 18 of the Regulations on Maritime Prizes.—Rus. Ins. 1900.

17. The officer takes note of all documents presented to him and makes a record of everything which is most essential. In examining the documents, he may ask questions of the master, steersman, and other members of the crew, at his option.—Rus. Ins. 1900.

ART. LVI. The boarding officer, if he has ground for suspicion, shall demand with proper courtesy to inspect the ship's papers. When the master of the vessel refuses to produce them, the boarding officer may insist upon it.—Jap. Reg. 1904. .

15. On boarding the vessel the visiting party should request of the captain of the vessel, with due ceremony, the papers for examination. Force may be used when the captain of the vessel refuses to comply with the request.—China, Reg. 1917.

#### Search.

48. If the papers do not furnish conclusive evidence of the innocent character of the vessel, the cargo, and voyage, or probable

cause for capture, the boarding officer shall continue the examination by questioning the personnel or by searching the vessel or by examining her cargo. If such further examination furnishes satisfactory evidence of innocence, the vessel shall be released; otherwise she shall be seized and sent in for adjudication.—U. S. Ins. 1917.

90. Si l'examen des pièces vous laisse un doute quelconque ou vous confirme un soupçon : (1) Sur la nationalité du navire: alors vous le capturerez; (2) Sur sa destination ou sur le caractère inoffensif de son chargement: alors vous pourrez procéder à la visite de la cargaison. Cette visite s'effectue par les soins du capitaine et de l'équipage du navire visité, sous les yeux de l'officier visiteur, lequel ne doit y procéder par lui-même qu'en cas de refus de ces derniers.—Fr. Ins. 1912.

89. If the master has objections to make, the officer will make his comment upon these in a brief report. The captain will forward this declaration with his own indorsement, immediately to the Chief of the Admiralty Staff.—Ger. O. 1909.

90. If the officer forms the opinion upon examining the ship's papers that the ship is suspicious, he will proceed to search. This consists of carefully fixing the agreement of the ship with the data in her papers (alterations in her exterior features, distinguishing marks, draft marks, name boards, are to be noted) and testing of the correctness of the data in the papers concerning the relation of the ship and her cargo. The search will be made by questioning the master, crew (if change of flag be suspected, compare the signatures of the crew with those in the muster roll, provided the law concerning the flag determines the national composition of the crew) and passengers, with whom, however, no compulsion by threat is to be used; and by examining the ship and cargo; this will be done with the assistance of the boat's crew, which will be increased if necessary, and—if he does not refuse—with the attendance of the master, who will cause the locks and packings to be opened, or suggest the most appropriate way of opening. Any injury is to be avoided as far as possible. Ger. O. 1909.

12. On the visit taking place, it is not permissible to give orders to open the hatchways in order to examine the cargo, nor to open any article of furniture to search for documents. The ship's papers presented by the captain to prove the legitimacy of the flag and the nature of the cargo are the only proof which international law allows.—Spain, Ins. 1898.

20. In case of doubt as to the authenticity of the information received in the examination of the documents, and especially in those cases when the vessel is proceeding to a hostile port, or when, from the general character of the courses, navigation, and situation of the

detained vessel, it may be supposed that a hostile port is the ultimate destination of the vessel or of the cargo conveyed thereon, the officer proceeds to an examination or search of the whole vessel in order to satisfy himself that there are no articles contraband of war among the cargo.

21. The examination (or search) of every vessel is performed by an officer with the assistance of several members of the crew, who go on board from the cruiser's boat at the command of the officer.

22. The number of sailors going on board may be four, six, eight, or more, according to the size of the vessel to be examined, and in the discretion of the officer. If it is found that the number of men on the cruiser's boat is insufficient, the cruiser may be signaled to send more assistance. The men who go on board to make an examination should, as far as possible, be the most intelligent, active, and experienced.

23. The examination of the interior apartments presents many difficulties and may call forth protests from neutral parties who innocently suffer. For this reason the officer should first judge what part of the cargo appears the most suspicious, owing to the insufficient clearness of the ship's papers, and to this part of the cargo he should direct his first attention. The conduct of the officer and of the men should be courteous, but without any deviations from the requirements of duty and service.

24. During the examination of the interior apartments the officer must positively demand the presence of the master during all acts, and only in extreme cases that of his assistants.

25. The master who is present during the search is obliged, upon the request of the officer making the search, to open all locks and rooms which the officer may desire to inspect, and indicate what objects should be handled with special care, and how certain packages (trunks, casks) should be opened or unbunged which are selected for more minute inspection. In case the master refuses to open a room upon the demand of the examining officer the vessel is subject to detention.

26. During the time of the examination or search, the officer, in order to render more easy his task, may ask various questions of individuals of the crew and passengers in order to obtain necessary information concerning the vessel and cargo. It is also advisable to pay attention to certain exterior signs; for instance, to the marks which exist on the smokestacks of steamers of various companies and which may be painted over.—Rus. Ins. 1900.

ART. LVIII. When the boarding officer, after inspecting the papers, deems the vessel to be suspicious, he shall search her. In

this case he may, if he deems it necessary, call the crew of the boat on board to assist, or he may ask for assistance from the ship from which he was sent.—Jap. Reg. 1904; art. 144, 1914.

20. When an officer on board a vessel in a visit finds the vessel is of suspicious character after examining its papers, he shall have the right to search the vessel.—China, Reg. 1917.

ART. LIX. Search shall be made together with the master of the vessel or his representative.—Jap. Reg. 1904.

ART. 145. Search shall be made together with the master of the vessel or his representative. The boarding officer shall require the master of the vessel or his representative to open any locked place, furniture, or goods. In cases of the preceding two paragraphs, if the master of the vessel or his representative refuses to comply, the boarding officer may take steps required by the occasion.—Jap. Reg. 1914.

ART. LX. The boarding officer shall require the master of the vessel or his representative to open any locked place or furniture, and if the latter refuses to comply the boarding officer may take steps required for the occasion.—Jap. Reg. 1904.

21. The search shall be conducted together with the captain of the vessel or one acting as his representative. Places or articles which are either sealed or locked shall be opened by the captain of the vessel or the one acting as his representative. In case the captain or his representative refuses to comply with the order of the searching party to open such articles or places, the latter can take necessary measures in regard to the opening of such places or articles.—China, Reg. 1917.

9. Suspect ships are to be searched, and, according to the result of the search, either released, brought into port, or captured. Since, however, for military reasons or because of the nature of the cargo, search can seldom be carried out at sea, it is advisable for suspect ships at once to be brought into a German port in order to undergo a more thorough search. In such cases a ship shall only be declared captured if during her voyage to a German port it is necessary to take her through neutral territorial waters.—Ger. P. C. 1916.

91. If the making of the search is proved to be necessary, but at the time is not practicable to carry out, the ship will be searched later at a suitable place. If this causes serious disadvantages to the ship to be searched, the captain will proceed to the provisional capture.—Ger. O. 1909.

#### Sick and wounded in vessel.

8. The record of the visit, which, as stated in Article VI, can be made at the wish of the captain of the visited vessel, will become an indispensable formality should the vessel contain wounded or sick

soldiers, subjects of the enemy, for in such a case all such persons will, by the mere act of visit, be incapacitated from bearing arms again during the war, in accordance with the first paragraph of the tenth additional article of the Geneva convention. The visiting officer will therefore in such a case make a notification of the same to the chief of the expeditionary force, and will make a note in the books of the visited vessel in the form prescribed in Article VI, with the following addition: This vessel contains (number of sick and wounded) individuals (of the army or navy or both) sick and wounded, subjects of the enemy, all of whom, by the fact of this visit, are incapacitated from bearing arms again during the war, according to paragraph 1 of the tenth additional article of the Geneva convention, of which I have made notification to the commander of the expeditionary force, who stated that he was (here follow rank and name).—Spain, Ins. 1898.

**Delay, release of vessel.**

5. The visiting officer should have instructions from his commanding officer authorizing the visited vessel to continue her voyage, if the visit has presented no difficulties, in order that the delay may not be longer than is absolutely indispensable.—Spain, Ins. 1898.

19. Having become convinced that the documents are all right, that the vessel is actually a neutral one, that there is no possibility of there being among the goods any articles contraband of war destined for the enemy, and that, generally speaking, the vessel is in no manner subject to detention, the officer immediately leaves the vessel, observing the rules set forth below in sections 28, 29, and 30 (conclusion of the examination).—Rus. Ins. 1900.

27. The officer desists from further examination of the vessel when he becomes convinced that there is no contraband of war in the cargo and that vessel contains nothing suspicious. Every object which has been displaced should, as quickly and carefully as possible, be returned to its place according to the directions of the master.—Rus. Ins. 1900.

**ART. LVII.** When the boarding officer deems, after inspecting the papers, that the vessel is not to be captured, she shall be released at once by order of the captain of the man-of-war.—Jap. Reg. 1904.

16. After examining the papers of the vessel, if the officer in charge of the visit finds that the vessel is not of suspicious character under any of the circumstances provided under article 11, he should set the vessel free at the command of the captain of the vessel.—China, Reg. 1917.

**ART. LXI.** The boarding officer if he finds, while making search, that there is no ground for capturing the vessel shall discontinue

the search, and the vessel shall be released at once by the order of the captain of the man-of-war.—Jap. Reg. 1904.

22. If the officer conducting the search of a vessel finds that the vessel is not liable to capture, after the search has been made, he should set the vessel free at the command of the captain of the warship.—China, Reg. 1917.

ART. LXIV. When a vessel is to be released on the ground that she has not received notification of blockade, or as coming under section 2 of Article XXX, or as not knowing the outbreak of the war under Articles XXXVI or XXVIII, the boarding officer shall enter a warning according to Forms II or III in the vessel's log book or upon the paper certifying her nationality, and shall order the vessel to retrace or to change her course, or take any other proper measure.—Jap. Reg. 1904.

30. Upon descending from the vessel the officer informs the master that permission to continue his voyage will not be given until the officer arrives on the imperial ship and reports to the commander. The officer prepares a detailed account of everything which he has examined and seen.—Rus. Ins. 1900.

#### Complaint.

ART. LXII. The boarding officer, before he leaves the vessel, shall ask the master whether he has any complaint regarding the procedure of visiting or searching, or any other points, and if the master makes any complaint he shall request him to produce them in writing—Jap. Reg. 1904.

#### Report.

33. On board the imperial vessel a commission is formed of three officers (including the officer who has made the examination), which prepares a detailed report concerning everything that has taken place and been discovered during the examination, and submits it for the approval of the commander.—Rus. Ins. 1900.

34. The report is written in the Russian language. The following points must be accurately indicated therein: Nationality, kind, and name of the vessel; the names of the masters and owners; the number of the crew and their nationality; all circumstances accompanying the stoppage of the vessel; all documents presented by the master, and their contents; all circumstances attending the examination of the documents and of the vessel; all information concerning everything that was found on the vessel; all statements of the master, supercargo, boatswain, and other persons questioned.—Rus. Ins. 1900.

35. The contents of the report are translated orally to the master, and he is asked to sign the report. However, the signature of the master is not obligatory. A note should be made on the report that

it was read and translated to the master. The protest of the master (in writing) should be added to the report and the points on which he disagrees should be explained therein.

**NOTE.**—In view of the fact that the preparation of the report and the interrogation of the master and other persons of the crew may occupy considerable time, the cruiser has the right to compel the merchant vessel to move along a given course, and to follow after her and perform the acts mentioned while under way.—Rus. Ins. 1900.

#### MODEL OF MEMORANDUM OF VISITATION

1901. (month, date) in (such and such) latitude and longitude, the imperial Russian first-class cruiser *Rurik*, first-class Captain —, commanding, stopped the steamer — (or sailing vessel, bark, schooner, etc.), under a neutral Dutch flag. The steamer immediately shut off its engine (or the sailing vessel lay to). Upon examination it was found that the steamer bore the name of —; the ship's papers (to be named) were found in good order and there was no contraband of war on board the steamer. The examination lasted two hours (from — to —).

Lieutenant —.

Rus. Ins. 1900.

**ART. LXXII.** The captain of a man-of-war shall immediately submit to the minister of the navy detailed accounts of visit, search, or capture, with his opinion.—Jap. Reg. 1904.

24. After the search is conducted, if the boarding officer finds that the ship is liable to capture, he should report the case to the captain of the warship and the measures provided under the articles in Chapter IV regarding the capture of a vessel shall be adopted.—China. Reg. 1917.

**ART. 157.** The commanding officer of a ship of war shall make to the minister of the navy without delay a detailed report concerning visit, search, and capture or detaining, with his opinion thereon. When there has been complaint with regard to visit or search from the master of the vessel, or when a vessel has been captured or detained, however, he shall report the important matters relating thereto by telegraph as soon as possible.—Jap. Reg. 1914.

#### Use of force.

89. S'il continue sa route et cherche à fuir, vous le poursuivrez et l'arrêterez au besoin par la force.—Fr. Ins. 1912.

83. If the ship does not stop upon signal, two successive blank charges are to be fired, and if necessary a shotted charge over the ship. If the ship then does not stop, or makes resistance, the captain will compel her to stop.—Ger. O. 1909.

5. If the ship does not stop when she is signaled to do so, two rounds of blank, and if necessary a live shell, should be fired over

her or across her bows. As regards the case of submarines, see article 42. (P. O. 83.) If the ship still refuses to stop, the commanding officer compels her to do so by using force. Force, however, may only be used until the ship abandons her attempt to escape. If the ship is damaged or even destroyed as a result of the employment of force, she has only herself to blame and she must bear the loss. The ship, however, must subsequently not be destroyed or otherwise penalized on account of her attempt to escape, but on the contrary she is then to be treated like any other neutral or enemy vessel.—Ger. P. C. 1916.

ART. 4. (b) If the merchant vessel does not obey this first intimation, and either refuses to hoist her flag or does not lay to, a second gun will be fired, this time loaded, care being taken that the shot does not strike the vessel, though going sufficiently close to her bows for the vessel to be duly warned; and if this second intimation be disregarded, a third shot will be fired at the vessel, so as to damage her, if possible, without sinking her. Whatever be the damage caused to the merchant vessel by this third shot, the commanding officer of the man-of-war or captain of the privateer can not be made responsible. Nevertheless, in view of special circumstances, and in proportion to the suspicion excited by the merchantman, the auxiliary vessel of war or privateer may delay resorting to the last extremity until some other measure has been taken, such as not aiming the third discharge at the vessel, but approaching it and making a fresh notification by word of mouth; but if this last conciliatory measure prove fruitless, force will immediately be resorted to.—Spain, Ins. 1898.

3. If a vessel does not stop in spite of the shot fired, a projectile is fired across the bows of the escaping vessel. In case of further resistance to stoppage, it is permissible to fire upon and pursue the fleeing vessel in order to compel her by force to stop. Upon beginning fire it is recommended to fire the first shot across the vessel among the masts. However, such indulgence is not obligatory, especially if the steamer be superior in point of speed, so that there is a possibility of her eluding pursuit. Every vessel which has shown an evident intention to escape from the cruiser, in consequence whereof the latter has been obliged to give chase and use force in order to stop her, is subject to detention; however, it lies with the commander, if he deem it expedient, to subject the temporarily detained vessel to an examination and to shape his further course in accordance with the results of such examination.—Rus. Ins. 1900.

ART. LIV. The captain of the man-of-war shall first communicate by signal flag or steam whistle his intention to visit the vessel.

At night he shall display a white light above the ensign in place of the signal flag. In case it is impossible on account of bad weather to communicate his intention by any of the means mentioned above, or in case the vessel does not make any response to the above signals, he shall give order to stop by firing two blank cartridges, and if there is further necessity, by firing a shot ahead of the vessel. If after giving the above warning the vessel still fails to obey the order to stop, fire shall be directed first at the yards and then at her hull.—Jap. Reg. 1904.

13. The captain of a warship can order such ships of suspicious character to stop and demand the right of visit. Flag signals and whistle shall be used to order the ship to heave to in daytime. In night white lanterns shall be used instead. In foul weather or the ship fails to obey the order, after the flag and whistle signals two blank cartridges shall be fired by the warship. In case of failure to comply with the order of the warship after the latter has discharged blank cartridges, shots shall be fired, first at its sail and then at the body of the ship, if it continues to pay no heed to the warning.—China, Reg. 1917.

#### **Record in log.**

97. Si l'examen de ces pièces démontre d'une manière certaine la neutralité du navire, sa destination inoffensive et le caractère inoffensif de son chargement, l'officier visiteur constatera le résultat de sa visite sur le journal de bord dudit navire, et vous laisserez le navire continuer sa route. L'absence de l'une des pièces ci-dessus indiquées ne justifierait pas seule la capture, si d'ailleurs l'ensemble des autres pièces prouvait la neutralité du navire et la régularité de l'expédition.—Fr. Ins. 1912.

6. If the captain of the visited vessel asks to have the visit certified, the visiting officer will accede to his request and will insert a note in the sheet for the day in the ship's books in the following form:

The undersigned (rank in the navy), sailing on the (gunboat, cruiser, etc., of His Catholic Majesty, named \_\_\_\_\_, or the auxiliary cruiser or privateer), whose commanding officer is (rank and name), certifies that this day at (hour of morning or evening), under a verbal commission from the said commanding officer, has carried out the visit of the (class of vessel, name, and nationality of merchant service), captain (name of captain), and ascertained from the papers shown to him the legitimacy of the flag which she flies, and the neutrality of her cargo.

(Date) \_\_\_\_\_.

(Signature of visiting officer) \_\_\_\_\_.

(Seal of visiting ship.)

—Spain, Ins. 1898.

28. Upon concluding the examination the officer records in the log book, in the Russian language, the time and place of the examination (latitude and longitude), the name of his ship, the name of the commander, and the result of the examination.—Rus. Ins. 1900.

29. Before leaving the vessel the officer proposes to the master to give a written certificate (if possible in his native tongue) that he has no cause for complaint; or, if the master have any complaint, to state the same in writing.—Rus. Ins. 1900.

**ART. LXIII.** The boarding officer shall enter in the log book of the vessel when and where the visit or search was made, the name of the man-of-war from which he was sent, and the name and rank of her captain, and shall sign his own name and rank.—Jap. Reg. 1904.

17. On leaving the vessel the boarding officer should enter in the log book of the vessel the place and date of the visit and the name of the captain of the warship and his own name.—China, Reg. 1917.

**ART. 149.** A boarding officer shall enter in the log book of the vessel when and where the visit or search was made, the name of the ship of war from which he was sent, and the name and rank of her commanding officer, according to Form No. 14.—Jap. Reg. 1914.

7. The visit will likewise be recorded in the books of the visiting vessel, the following circumstances being stated:

- (a) Details of the intimation or intimations given to the visited vessel.
- (b) Hour of its laying to.
- (c) Name and nationality of visited vessel and captain thereof.
- (d) Manner in which visit was effected, and its result, stating name of officer who executed it.
- (e) Hour at which vessel was authorized to proceed.

—China, Ins. 1917.

**ART. LXXI.** The captain of a man-of-war shall cause due notes to be entered in the log book of his ship concerning a visit, search, or capture.—Jap. Reg. 1904.

49. The boarding officer must record the facts concerning the visit and search upon the log book of the vessel visited, including the date when and the position where the visit occurred. This entry in the log must be made whether the vessel is held or not.—U. S. Ins. 1917.

## PAPERS

### List.

50. The papers which will generally be found on board a private vessel are:

1. The certificate of registry or nationality.
2. A certified bill of sale, or certificate thereof duly authenticated, in the absence of certificate of registry or nationality, or in the case of a vessel which has recently been transferred from enemy to neutral ownership.

3. The crew list.
4. The passenger list.
5. The log book.
6. The bill of health.
7. The clearance papers.
8. The charter party, if chartered.
9. Invoices or manifests of cargo.
10. Bills of lading.

The evidence furnished by the papers against a vessel is conclusive. Regularity of papers and evidence of the innocence of cargo or destination furnished by them are not necessarily conclusive, and if doubt exists a search of the ship or cargo should be made to establish the facts. If a vessel has deviated far from her direct course this, if not satisfactorily explained, is a suspicious circumstance warranting search, however favorable the character of the papers.—U. S. Ins. 1917.

94. Les principaux papiers de bord des navires de commerce sont :
1. L'acte constatant la nationalité ;
  2. Eventuellement l'acte de propriété (voir § 108 et suiv.) ;
  3. Le congé ;
  4. Le permis de navigation ou certificat de navigabilité ;
  5. Le rôle d'équipage et la liste des passagers ;
  6. La patente de santé ;
  7. Le journal de bord ;
  8. Le manifeste de chargement ;
  9. La charte-partie (si le navire est affrété) et les connaissances dûment signés ;
  10. L'inventaire.

—Fr. Ins. 1912.

108. The captain must immediately take possession of the ship's papers; that is, all papers which are found on board and may serve as evidence before the prize court. The papers will be arranged in the same condition in which they were found and will be numbered; a list of them will be made and signed by the captain and the master; papers and list will be sealed with the seal of the man-of-war and of the master and, together with a statement of the condition of the ship and cargo and a copy of the report required by 96, will be given to the prize officer for safe keeping and delivery to the prize office. If the master refuses his signature or his seal, this is to be noted at the end of the list. If papers are found later, or if any have been destroyed or thrown overboard in the presence of witnesses, statements in the matter are to be drawn up with the witnesses and submitted to the prize office.—Ger. O. 1909.

13. When the ship has been brought into port the prize officer must take possession of all papers. If possible, a list is to be prepared and the papers are to be arranged in order, packed up, and sealed (the master's seal being used).—Ger. P. C. 1916.

ART. XX. Ship's papers generally consist of the following documents:

1. *Certificate of nationality of the vessel.*—This document is a certificate issued by the register officer of the port where the vessel is registered, and generally contains the name and tonnage of the vessel, the name of the master, details of how the vessel came into the possession of the present owner, and the name, nationality, etc., of the registered owner.

2. *Passport.*—This document is a demand issued by the government of the country to which the vessel belongs, that the vessel with her crew, passengers, goods, and merchandise shall be allowed free passage without any hindrance, and generally contains the name and residence of the master, the name, construction, and destination of the vessel.

3. *Permit for navigation.*—This document is issued by the officers of the port where the vessel fitted out for the voyage and gives her the right to navigate, carrying the flag and passport of the country to which she belongs. The document generally contains the nature, quantity, and owner of the cargo, and the place of destination.

4. *Charter party.*—This is a contract entered into by the owner or master of a vessel and the person who charters her concerning the hire of the whole or part of the vessel, and generally contains the name of the master, the name and construction of the vessel, the port where she is lying when chartered, the name and residence of the person who chartered her, the nature of the cargo, the ports where it is to be loaded and unloaded, and the freightage.

5. *Log book.*—This is a journal kept by the master of the vessel in accordance with the regulations of the country to which she belongs.

6. *Ship's journal.*—This is a journal kept by the master of the vessel to make report to her owner.

7. *Contract with the shipbuilder.*—This document must be carried by a vessel while there is no change in ownership since her completion, and is used to prove her nationality in case there is no passport, permit for navigation, or certificate of nationality.

8. *Assignment.*—This document proves that the ownership of a vessel has been transferred to the purchaser.

9. *Bills of lading.*—These are generally made separately for goods of different shippers. Those remaining on board are duplicates of those which the master has given to the shippers. A bill of lading contains the name of the shipper, date and place of loading, the name and destination of the vessel, the nature, quantity, destination, and freightage of the goods.

10. *Invoice.*—An invoice always accompanies goods and contains details of each bale of goods, the price, freightage, custom duty, and other charges and expenses, and the names and residences of the consignor and consignee.

11. *Freight list.*—This contains the names of the consignor and consignee, the mark and number of each bale, quantity of goods in each bale in detail, and accounts of freightage corresponding to the bill of lading, and signed generally by an agent who manages clearance of vessels, and by the master.

12. *Clearance.*—This is issued by the officer of the customhouse which the vessel left last, and proves that the custom duty has been paid. It also contains the destination of the vessel and her cargo.

13. *Muster roll.*—This contains the names of the crew, with their ages, duties, residences, and places of birth.

14. *Shipping papers.*—This is a contract signed by every member of the crew, with details of the limits of the voyage and the period of hire contracted.

15. *Bill of health.*—This is a certificate testifying that there has been no contagious disease prevailing in the port which the vessel left and that there has been no case of such disease on board the vessel.

—Jap. Reg. 1904.

7. The papers of a ship shall include the following documents:

- (a) Certificates denoting the nationality of the ship.
- (b) Passport.
- (c) Agreement for the construction of the ship.
- (d) Agreement for chartering the ship.
- (e) Deeds for transfer of the ship in sale.
- (f) The list of the names of the officers and crew on board the ship.
- (g) The voyage journal.
- (h) The log book.
- (i) The daily records.
- (j) Passports for leaving a port.
- (k) Agreements for the employment of the officers and crew of the ship.
- (l) The health papers.
- (m) Certificates for the consignment of goods on board.
- (n) Receipts for the goods consigned.
- (o) The list of goods shipped.

Ships are not necessary to produce all the above-mentioned papers when visited. Only those the ship is required to keep in accordance with the law of the country to which the vessel belongs are necessary.—China, Reg. 1917.

ART. 103. The principal ship's papers which are generally carried by vessels are as follows:

- (1) Certificate of nationality of the vessel.
- (2) Log book.
- (3) Muster roll.
- (4) List of passengers.
- (5) Charter party.
- (6) Bills of lading and invoices.
- (7) Freight list.
- (8) Clearance.
- (9) Bill of health.
- (10) Bill of sale of the vessel.

—Jap. Reg. 1914.

ART. 105. If the commanding officer of a man-of-war considers it necessary, he may request the production of the following documents:

- (1) Engine-room log book.
- (2) Policy of insurance of the vessel or of her cargo.
- (3) In the case of a vessel equipped with radio, the records of messages sent and received.

—Jap. Reg. 1914.

#### Language.

12. The circumstance that the papers are written in a language unknown to the officer making the visit does not authorize the detention of the vessel.—Spain, Ins. 1898.

**Lack of, or false.**

ART. 35. Sont possibles de saisie les navires qui ne possèdent aucun papiers de bord, ont caché ou détruit intentionnellement ceux qu'ils possédaient ou en présentent de faux.—Institut, 1913.

ART. 10. Vessel liable to capture: (3) If a legal document to prove the nationality can not be produced. (4) If bound for the enemy's ports, the vessel can not produce a document proving the nature of the cargo.—Spain, Ins. 1898.

13. Although it very seldom occurs that the principal ship's papers, whether those referring to her nationality or to the nature of her cargo, are lost, mislaid, or left on shore by mistake, if such a case should occur, and by other papers or means the captain can convince the officer visiting the ship of the neutrality of the ship and her cargo, he may authorize the captain to continue her voyage; but if an explanation can not be given, the ship will be detained and conducted to the nearest Spanish port until the necessary investigation concerning the point or points in question is made.—Spain, Ins. 1898.

10. The vessel will also be captured when during the visit duplicate or false papers are found, since such cases fall under the regulations contained in clauses (3) and (4) or in both, since neither false nor duplicate papers can serve to justify the conditions referred to.—Spain, Ins. 1898.

**False or concealed.**

ART. 106. Any vessel coming under one of the following cases shall be captured, no matter to what nationality she belongs:

- (1) If a vessel does not carry ship's papers.
- (2) In a vessel throws overboard, mutilates, or hides the ship's papers.
- (3) If a vessel carries dual ship's papers or altered or counterfeited ship's papers.

—Jap. Reg. 1914

**Destruction of.**

98. Toutefois, s'il est constaté qu'un ou plusieurs de ces papiers ont été jetés à la mer, supprimés, distraits ou falsifiés, le navire visité doit être capturé sans qu'il soit besoin d'examiner par qui ou pour quelle cause ils ont été jetés à la mer, supprimés, distraits ou falsifiés.—Fr. Ins. 1912.

**Destroyed or suspicious.**

ART. 107. A vessel coming under one of the following cases may be captured, no matter to what nationality she belongs, if there are circumstances which cause suspicion:

- (1) When she does not produce an important paper that should be carried by a vessel; or her ship's papers are not in proper order.
- (2) When there are contradictions among the ship's papers, or between the ship's papers and statement of the master.

—Jap. Reg. 1914.

## RESISTANCE

ART. 63. Forceable resistance to the legitimate exercise of the right of stoppage, visit and search, and capture, involves in all cases the condemnation of the vessel. The cargo is liable to the same treatment which the cargo of an enemy vessel would undergo. Goods belonging to the master or owner of the vessel are regarded as enemy goods.—D. of L. 1909.

45. If the summoned vessel resists or takes to flight she may be pursued and brought to by forcible measures if necessary.—U. S. Ins. 1917.

90. En cas de résistance armée de sa part, vous le capturerez sans autre examen. La tentative de fuite ne suffit pas à elle seule à justifier la capture.—Fr. Ins. 1912.

102. *Résistance à la visite.*—La résistance opposée par la force à l'exercice légitime des diverses opérations de la visite rend immédiatement le navire passible de capture et ultérieurement de confiscation. Le chargement sera passible du même traitement que subirait le chargement d'un navire ennemi; les marchandises appartenant au capitaine ou au propriétaire du navire seront considérées comme marchandises ennemis.—Fr. Ins. 1912.

2. If an armed merchant ship of the enemy makes armed resistance to measures of the right of prize, such resistance is to be broken with all means. The responsibility for any damages which the ship, cargo, and passengers may thereby suffer rests with the enemy government. The crew are to be treated as prisoners of war. The passengers are to be released, except when they have demonstrably taken part in the resistance. In the latter case, the procedure extraordinary to the laws of war is to be employed against them.—Ger. App. P. C. 1914.

ART. 10. Vessel liable to capture: (2) If active resistance is offered to the visit, that is, if force is employed to escape it.—Spain, Ins. 1898.

**Attempted flight.**

11. Neither an attempt at flight to escape visit, nor simple suspicion of fraud respecting the nationality of the vessel or the nature of its cargo, authorize the capture of the vessel.—Spain, Ins. 1898.

**Attempt to escape.**

5. Care is to be taken in determining whether an attempt has been made to escape.

The commanding officer must:

(1) Make certain that the signals have been understood, especially if there is another ship in the vicinity.

(2) In the case of merchant ships, any increase in speed is generally small, and barely distinguishable from any great distance, as they in any case usually steam at full speed.

(3) Some companies have ordered their ships, in the event of their being held up, not to reverse the engines, but simply to stop and allow the ship to proceed until she has lost her way.

As regards attempts to escape and the offering of resistance when held up by submarines, see article 43.

—Ger. P. C. 1916.

An attempt to escape renders the ship suspect and therefore justifies her being captured and brought into port without further procedure. If, however, the ship is not liable to confiscation on other ground—for example, on account of carrying contraband or rendering assistance contrary to the laws of neutrality—she may not be sunk, nor, if it is impossible to bring her into port, may any other disadvantages be imposed upon her by way of punishment.—Ger. O. 1909.

25. A neutral is to be treated as an enemy ship if she offers active resistance to the measures laid down in the prize law. An attempt to escape does not constitute in itself active resistance; it justifies, however, the application of force until the ship desists from such an attempt. See, however, article 5, above.

Active resistance does not only consist, however, in the ship herself offering direct and active resistance to capture, such as firing on or attempting to ram the war vessel. It is constituted just as much by the ship held up summoning the assistance of hostile war vessels in the vicinity and causing them to attack the war vessel, in order to facilitate an escape. Wireless distress signals (S O S) do not constitute such resistance; the wireless messages must be intended to summon hostile forces.

As regards attempts to escape and the offering of active resistance when held up by submarines, see article 43.—Ger. P. C. 1916.

ART. 95. A vessel forcibly resisting the legitimate exercise of the right of stoppage, visit, search, and capture, shall be captured no matter to what nationality the vessel belongs.—Jap. Reg. 1914.

#### **Liability of vessel.**

ART. 96. A vessel coming under the preceding article is liable to condemnation. The cargo of a vessel coming under the preceding paragraph is liable to the same treatment which the cargo of an enemy vessel would undergo. Goods belonging to the master or owner of the vessel are regarded as enemy goods.—Jap. Reg. 1914.

48. Vessels resisting the visit or search are liable to condemnation. Enemy goods and goods belonging to the owner of such a vessel on board of the same, are liable to condemnation.—China, Reg. 1917.

ART. XLVIII. Vessels that have opposed visit or search, and all the goods belonging to the owners of such vessels shall be forfeited.—Jap. Reg. 1904.

## PRIZE

### SEIZURE

#### **Definition.**

*Note to preamble.*—La saisie, lorsqu'elle s'applique au navire, est l'acte par lequel le bâtiment de guerre prend possession du navire arrêté, avec ou sans l'assentiment de celui-ci. La saisie diffère de la capture en ce que le sort ultérieur du navire peut n'être pas en cause quant à l'éventualité de sa confiscation. Appliquée aux marchandises seules, la saisie est l'acte par lequel le bâtiment de guerre, avec ou sans l'assentiment du capitaine du navire arrêté, prend possession de ces marchandises et les détient ou en dispose sous réserve du jugement ultérieur de la juridiction des prises.—Institut, 1913.

*Preliminary note.*—La saisie, lorsqu'elle s'applique aux marchandises seules, est l'acte par lequel le navire de guerre, avec ou sans l'assentiment du capitaine du navire arrêté, s'empare et dispose de ces marchandises comme il est dit aux présentes instructions, sous réserve du jugement ultérieur du Conseil des prises. La saisie, lorsqu'elle s'applique au navire, diffère de la capture en ce que le sort ultérieur du navire n'est pas en cause quant à l'éventualité de sa confiscation. Il y a saisie, lorsque le navire doit être mis sous séquestre pendant la durée des hostilités; il y a saisie, lorsque le navire doit être contraint de venir débarquer sa marchandise illicite dans un port national ou allié, sous réserve du jugement ultérieur du Conseil des prises quant au sort de cette marchandise. La saisie est toujours accompagnée des opérations d'inventaire et d'apposition des scellés.—Fr. Ins. 1912.

*Preliminary definitions.*—Whenever a ship, without being captured, is prevented from pursuing its route, for instance, through notification of blockade made on the spot or through any other cause, it is a case of stopping. (arrêt.)—Fr. Ins. 1916.

## CAPTURE

#### **Definition.**

*Preliminary note.*—La capture est l'acte purement militaire par lequel le commandant du navire de guerre substitue son autorité à celle du capitaine du navire de commerce, dispose du navire, de son équipage et de sa cargaison comme il est dit aux présentes instructions, sous réserve du jugement ultérieur du Conseil des prises quant au sort définitif du navire et de sa cargaison.—Fr. Ins. 1912.

*Note to preamble—Définitions.*—La capture est l'acte par lequel le commandant du bâtiment de guerre substitue son autorité à celle du capitaine du navire ennemi sous réserve du jugement ultérieur de la juridiction des prises quant au sort définitif du navire et de sa cargaison.—Institut, 1913.

**When justified.**

115. La visite est suivie de capture ou de saisie lorsqu'elle révèle ou confirme soit le caractère ennemi du navire, soit une violation de blocus, soit le caractère de contrebande de son chargement.—Fr. Ins. 1912.

**When proper.**

94. If the search, after the hearing of the master, shows such circumstances that the captain believes that the condemnation of the ship may be expected, he will as a rule capture the ship.—Ger. O. 1909.

9. Subject to detention are vessels and cargoes which may, according to the provisions of these regulations, be subjected to confiscation as prizes.—Rus. Reg. 1895.

18. The officer ceases the examination and the vessel is subject to detention in the following cases:

- (a) If the vessel proves to be an enemy's.
- (b) If no ship's papers are found, especially those from which the nationality of the vessel might be determined and the circumstances of its sailing verified; and if the ship's papers are thrown overboard or otherwise destroyed.
- (c) If there be among the papers such as give rise to the suspicion that the vessel is a hostile one.
- (d) If the officer becomes convinced that the documents are false.
- (e) If it is evident from the documents that the vessel was bought by a neutral purchaser from hostile subjects and there is reason to suppose that a fictitious sale was consummated for the purpose of covering enemy's property.

—Rus. Ins. 1900.

**Joint capture.**

ART. 158. When a Japanese warship and that of an allied power have conjointly captured, or detained, a vessel, the control of that vessel shall be as follows:

(1) When either the Japanese warship or that of the allied power has actually captured or detained a vessel, the other warship only cooperating, the commanding officer of the warship which has actually captured, or detained, the vessel sends her to a port of his country, no matter what the seniority of the two commanding officers is.

(2) When the Japanese warship and that of an allied power have captured, or detained, a vessel at the same time, the senior of the two commanding officers sends the vessel to a port of his country.

—Jap. Reg. 1914.

**Display of flag.**

74. The act of capture shall be signified by hoisting the United States flag on board the vessel seized.—U. S. Ins. 1917.

75. In case the prize is an enemy vessel, the flag of the United States shall be flown at the usual place (peak or staff) over the enemy flag.—U. S. Ins. 1917.

76. If the prize is a neutral vessel, the neutral flag shall be flown as usual until she is adjudged to be a lawful prize by a competent court; the flag of the United States, however, shall be exhibited at the fore to indicate that she is for the time in the possession of officers of the United States.—U. S. Ins. 1917.

77. Whenever the colors are displayed, the procedure of the two preceding paragraphs shall be followed thereafter during the passage of the prize to the United States port and while under the control of the prize master in such port.—U. S. Ins. 1917.

127. Tout navire capturé navigue avec le pavillon et la flamme, insignes des bâtiments de guerre.—Fr. Ins. 1912.

ART. 154. On a captured or detained vessel the ensign of Japanese naval vessels shall be hoisted, and in the case of Art. 152, par. 2, the flag of the vessel shall be ordered hauled down.—Jap. Reg. 1914.

#### Formalities.

95. The capture will be effected by communicating a protocol to the master, taking possession of the ship with a prize crew, and hoisting the war flag. If taking possession of the ship and therewith the hoisting of the war flag is not feasible, the ship will be directed to haul down her flag and regulate her speed and course according to the orders of the captain. The ship does not become a man-of-war by any such flying of the war flag.—Ger. O. 1909.

ART. 9. The capture of a ship is effected by a communication in protocol form to the master, by placing a prize crew on board and by hoisting the naval ensign. If it is found impossible to carry out all these formalities, the mere fact of hoisting the naval ensign or hauling down of the ship's colors on the order of the commanding officer, constitutes the act of capture.—Ger. P. C. 1916.

96. The captain will report concerning the capture as soon as possible directly to the chief of the admiralty staff. The report must contain the name of the master and of the ship, the flag carried at the time of visiting, time, place, and reasons for capture. The prize office will receive a copy of the report when the ship is brought in.—Ger. O. 1909.

ART. 150. After visit and search has been made, if the commanding officer of the ship of war still has suspicion of the vessel, he shall order the boarding officer to hear the explanation of the master, and if after these explanations there still appears to be grounds for capturing or detaining her, such vessel shall be captured or detained.—Jap. Reg. 1914

31. If the vessel is to be detained the officer makes known this fact by a signal, and, taking with him the documents, the master, and other persons whose testimony may be necessary, he proceeds to his ship.—Rus. Ins. 1900:

**ART. LXVII.** If the captain of the man-of-war decides to capture a vessel he shall inform her master of the reason, and shall take possession of the vessel by sending one officer and the required number of petty officers and men. If on account of bad weather or any other cause it is impossible to dispatch these officers and men, the captain of the man-of-war shall order the vessel to haul down her colors and to steer according to his direction. If the vessel does not obey the orders of the captain of the man-of-war, he may take any measures required for the occasion.—Jap. Reg. 1904; Art. 152, Reg. 1914.

26. After having decided to capture the ship, the captain of the warship shall communicate to the captain of the vessel under capture the reason or reasons for which his vessel is liable to capture and at the same time dispatch a detachment of sailors under the command of an officer to proceed to the captured ship and take possession of the same.—China, Reg. 1917.

31. After the capture the captain of the captor shall make detailed report on the circumstances under which the capture was carried out to the minister of navy.—China, Reg. 1917.

#### Prize, definition.

*Note to preamble.*—Le mot *prise* est une expression générale s'appliquant au navire capturé ou à la marchandise saisie. Il désigne également le fait de s'emparer d'un bâtiment de guerre.—Institut, 1913.

*Preliminary note.*—Le mot *prise* est une expression générale s'appliquant au navire capturé ou à la marchandise saisie.—Fr. Ins. 1912.

5. The following are acknowledged as prizes: (1) Detained (captured) hostile vessels and cargoes, as well as vessels and cargoes of neutral nationality, and (2) Russian and neutral vessels and cargoes and the vessels and cargoes of an allied power captured back from an enemy who has seized them (recaptures), if the detention or recapture has been effected under conditions indicated in these regulations.—Rus. Reg. 1895.

11. Prize means the articles seized, adjudicated by the prize court and confiscated.—China, 1917.

#### CARE OF PRIZE

**ART. 100. *Formalités de la saisie.***—Lorsque, après la visite qui en aura été faite, un navire est reconnu susceptible de capture, l'officier qui opère la saisie doit :

1. Mettre sous scellés, après les avoir inventoriés, tous les papiers de bord du navire ;
2. Dresser un procès-verbal de la saisie, ainsi qu'un inventaire sommaire du bâtiment constatant son état ;
3. Constater l'état de la cargaison dont il sera dressé un inventaire, puis faire fermer les écoutilles de la cale ; les coffres et les soutes et y apposer les scellés autant que le permettent les circonstances ;

4. Dresser la liste des personnes trouvées à bord;
  5. Mettre à bord du navire saisi un équipage suffisant pour s'assurer du navire et y maintenir l'ordre et le conduire dans tel port qu'il appartiendra.
- S'il le juge à propos, le capitaine peut, au lieu de détacher un équipage à bord du navire, se borner à l'escorter.

—Institut, 1913.

116. Si la visite ne détermine pas la saisie du bâtiment, l'officier qui en aura été chargé devra seulement la constater sur les papiers de bord. Si, au contraire, elle détermine la saisie ou la capture, il devra être procédé ainsi qu'il suit :

1. S'emparer de tous les papiers de bord et les mettre sous scellés après en avoir dressé inventaire;
2. Dresser un procès-verbal de capture ou de saisie portant inventaire sommaire du bâtiment, dont un exemplaire sera remis au capitaine du navire capturé ou saisi;
3. Constater l'état du chargement, puis faire fermer les écoutilles de la cale, les coffres, les soutes, et y apposer les scellés;
4. Dresser un état des effets, argent, instruments nautiques, et autres objets appartenant au capitaine et à l'équipage. S'ils ne sont pas laissés à leur disposition, mention en sera faite au procès-verbal;
5. Mettre à bord un équipage pour la conduite de la prise et en donner le commandement à un officier ou à un officier-marinier, en lui remettant une lettre de conducteur de prise et vos instructions.

—Fr. Ins. 1912.

ART. 103. Le navire saisi et la cargaison seront, autant que possible, maintenus intacts durant leur voyage au port. Si la cargaison comprend des choses susceptibles de se détériorer facilement, le capteur, autant que possible d'accord avec le capitaine du navire saisi et en sa présence, prendra les mesures les plus convenables pour la conservation de ces choses.—Institut, 1913.

83. Attention is directed to articles 16 and 17 of the articles for the Government of the Navy (sec. 1624, Rev. Stat.), which read :

ART. 16. No person in the Navy shall take out of a prize or vessel seized as a prize any money, plate, goods, or any part of the equipment, unless it be for the better preservation thereof, or unless such articles are absolutely needed for the use of any of the vessels or armed forces of the United States, before the same are adjudged lawful prize by a competent court; but the whole, without fraud, concealment, or embezzlement, shall be brought in, in order that judgment may be passed thereon, and every person who offends against this article shall be punished as a court-martial may direct.

ART. 17. If any person in the Navy strips off the clothes of or pillages, or in any manner maltreats any person taken on board a prize, he shall suffer such punishment as a court-martial may adjudge. (Sec. 1624, Rev. Stat., 1878.)

—U. S. Ins. 1917.

106. The captain must immediately upon the capture of a ship or the seizure of goods take the measures which are necessary for their security and for the prize court proceedings.—Ger. O. 1909.

18. Upon detaining a merchant vessel and cargo the commander of the vessel which has made the detention is obliged to draw up a protocol concerning the reasons and circumstances of the detention, as well as to take the necessary measures for taking care of the detained vessel or cargo. Moreover, upon detaining the vessel itself (1) there are detained, together with the vessel, temporarily, regardless of whether they are acknowledged to be prisoners of war or not, the master, supercargo, and other persons of the crew whose statements may, in the opinion of the commander of the detaining vessel, be indispensable in deciding matters during the investigation prescribed for prize cases, and (2) all documents found on the vessel are inventoried and sealed.—Rus. Reg. 1895.

19. The master of a detained merchant vessel, as well as the owners of the vessel or cargo and the agents (trustees) of these owners, provided they are on the spot, are entitled to be present during the acts mentioned in the first part of article 18 and in point 2 of the same article (18), to make their observations and suggestions with regard thereto, and to affix their seals to the articles and rooms being sealed.—Rus. Reg. 1895.

23. Upon conducting a detained vessel or cargo into a Russian port or to the active fleet, it is surrendered to the naval authorities, the proper documents being turned over to the latter (Arts. 18 and 21). The naval authorities, upon opening the documents which have been placed under seal, take measures as to the reception, inventorying, and preservation of the property turned over to them, and also in case of undelayable necessity, arrange for the sale by public auction of those articles constituting such property which, by their nature or condition, do not permit of being kept. Not only the commander of the detaining vessel or his empowered agent, but also the persons mentioned in article 19, are entitled to be present during these acts, as well as to make their observations and suggestions regarding them.—Rus. Reg. 1895.

24. The rights and duties of the naval authorities indicated in article 23 become incumbent, in the absence of such authorities, as follows: (1) In Russian ports, on the local port, customs, or police authorities; and (2) in the ports of an allied power, upon agreement of the director of the naval ministry and the minister of foreign affairs with the proper foreign authorities, on the local Russian naval agency, or Russian consulate, or other establishment.—Rus. Reg. 1895.

107. If circumstances require a quick separating of the man-of-war from the captured ship, the officer commanding the prize crew (prize officer) is to be intrusted with these measures.—Ger. O. 1909.

ART. 181. The commanding officer of a ship of war and the prize officer shall submit to the Minister of the Navy a detailed report con-

cerning the taking into port of a captured vessel, with their own opinions attached to it. However, when the persons and cargo have been landed, when the vessel has been taken into a port of an allied power, when the vessel has touched at a neutral port, when the cargo has been sold, or when any other unusual actions have been taken, being made necessary by circumstances, the substance of such action and the reason therefor shall be reported by telegraph.—Jap. Reg. 1914.

ART. 182. The provisions of this chapter are applicable to vessels detained. However, in the case of vessels detained, transshipment of persons on board, sale of cargo, and any other actions made necessary according to circumstances, shall be taken only in the case of absolute necessity. Also care must be taken to maintain the condition of the vessel and her cargo as found.—Jap. Reg. 1914.

#### Certificate of valuables.

ART. LXXVI. The captain of the man-of-war shall prepare in duplicate a certificate as to money, negotiable notes, and other valuables on board the vessel, and shall give one copy to the master of the vessel.—Jap. Reg. 1904.

109. Concerning the money and valuables found on board, a list, confirmed in writing, according to 108, of which the master will retain a copy, will be drawn up and later delivered to the prize office. The captain is to see that proper steps are taken that no one may appropriate to his own use anything from the cargo, the ship's equipage, or the ship's stores. The ship, equipage, stores, and cargo, as well as the personal and material auxiliary means, are to be handled and managed with the greatest care.—Ger. O. 1909.

#### Perishable goods.

ART. LXXXIV. When there are among the cargo of a captured vessel any goods that putrify easily or are not adapted for transportation, the captain of the man-of-war shall appoint a board from among the officers of the ship who are qualified for such work, and shall order them to submit a report. The substance of such investigation shall be entered in the log book.—Jap. Reg. 1904; art. 165, Reg. 1914.

ART. LXXXV. When the board reports that there are among the cargo goods that are not adapted for transportation, the captain of the man-of-war shall sell such goods at the nearest Japanese port, or at a neutral port, if permission is obtained from the authorities of the neutral State. Any goods that are not salable may be disposed of as seems best.—Jap. Reg. 1904.

ART. 166. When the board reports that there are among the cargo goods that are not adapted for transportation, the commanding off-

cer of the ship of war shall sell such goods at the place of capture, the nearest Japanese port, or that of an allied power. Any goods that are not salable may be disposed of as seems best.—Jap. Reg. 1914.

34. When the captain of the captor finds goods of perishable nature among the cargoes on board the captured vessel, which are not adequate to stand a long journey, he should order one of his officers to make a report, together with the captain of the captured vessel, to the prize court. In regard to the treatment of such goods, the captain of the captor can dispose of them at a public sale at the nearest port of the republic or any neutral port, where he can obtain the permission of the local authorities for the sale of such goods. The kind of the goods thus disposed of and the proceeds of the sale shall be entered in the log books of the vessel and forward the same to the prize court.—China, Reg. 1917.

ART. LXXXVI. Before putting up such goods for sale the captain of the man-of-war shall select the most competent appraisers possible and shall have the whole of the cargo, or that part of it which is to be sold, appraised in writing. Such sale, when possible, shall be made by auction, in the presence of the prize officer and a Japanese consul, if convenient, or any other Japanese officer lying near the place where the sale is to be made.—Jap. Reg. 1904.

ART. LXXXVII. The captain of the man-of-war shall order the prize officer to prepare a certificate according to Form VIII concerning the procedure of the sale, and shall send the certificate, accompanied by the report of the board of survey, appraisements, accounts of the sale, and other documents, together with the vessel.—Jap. Reg. 1904; art. 168, Reg. 1914.

#### **Loss at sea.**

ART. 107. *Perte des prises par fortune de mer.*—Si une prise est perdue par fortune de mer; on doit constater le fait avec soin. Aucune indemnité n'est due, dans ce cas, ni pour le navire, ni pour le chargement, pour vu que, si la prise est annulée ultérieurement, le capteur puisse prouver que la perte aurait eu lieu, même en l'absence du capturé.—Institut, 1913.

147. Si une prise est perdue par fortune de mer, il importe de constater le fait avec le plus grand soin et d'en faire l'objet d'un rapport adressé-sans délai au Ministre de la Marine.—Fr. Ins. 1912.

#### **Prize master.**

82. If circumstances permit, it is preferable that the officer making the search should act as prize master.—U. S. Ins. 1917.

ART. LXXVII. The captain of the man-of-war shall, so far as possible, close and seal the holds of the captured vessel and shall take

care to prevent embezzlement of any cargo, furniture, or any other things on board.—Jap. Reg. 1904.

27. After having taken possession of the captured vessel, the captain of the warship shall carry out the following measures:

- (a) The papers of the ship shall be taken off the ship and kept in safety
- (b) To examine the cargo and other valuable articles on board the captured vessel and make an invoice of the same.
- (c) The hatchway of the captured vessel leading to its cargo store shall be locked and sealed.

—China Reg. 1917.

124. The prize officer commands the captured ship and with regard to her has the rights and duties of the captain of the man-of-war captor. He will take care, before all else, for taking the ship in safely and for the observance of requirements of Sections VII and VIII.—Ger. O. 1909.

126. He must apprehend and prevent any attempt of the ship's crew to regain possession of her, unnecessary use of force to be avoided.—Ger. O. 1909.

130. Directly after arrival in a port, the prize officer will telegraph for further instructions to the Chief of the Admiralty Staff.—Ger. O. 1909.

13A. *The prize officer is in command.*—The prize officer acts as commanding officer of the captured ship, and in this respect he possesses the same rights and duties as the commanding officer of the war vessel that has captured the ship. (P. O. 124–131.) He is responsible for the navigation of the vessel. The crew, however, must carry out their former duties under his orders.

13B. *Precautions against attack by the crew.*—Should the crew attempt to regain control of the ship, he must act with firmness and prevent them from doing so. In this connection, he should, for example, have all hatches but one closed and place a guard over the hatch left open. All arms are to be surrendered.—Ger. P. C. 1916.

ART. XCVI. The prize officer shall pay the greatest attention to navigating captured vessel, and shall endeavor not to cause any damage to the vessel or her cargo.—Jap. Reg. 1904; Art. 178, Reg. 1914.

ART. LXXIV. When a vessel has been taken possession of, the captain of the man-of-war shall seize the documents concerning the vessel and her cargo and all other documents on board; arrange, number, and seal them; and the master of the vessel and the captain of the man-of-war shall sign on them; and a certificate prepared according to Form IV shall be attached. The certificate of the above clause is generally made by the officer who received or found the documents.—Jap. Reg. 1904.

ART. 153. When a vessel has been taken possession of, the commanding officer of the ship of war shall order the boarding officer to take the following steps:

- (1) To seize the ship's papers and all other documents found on board the vessel, to prepare a list of all the papers and to seal the papers.
- (2) When documents which have been thrown away, mutilated or hidden, are found or picked up, to proceed with them according to No. 1, stating the fact.
- (3) To prepare a list of money, negotiable notes, and other valuables on board the vessel.
- (4) To examine the condition of the cargo and to close and seal the holds of the vessel.
- (5) To prepare in duplicate a report regarding the capture or detaining according to Form No. 15 or 16, and to give one copy to the master of the vessel.

—Jap. Reg. 1914.

ART. LXXV. When documents are found which have been mutilated or thrown away or hidden, the captain of the man-of-war shall deal with them according to the preceding article; but in this case the certificate shall be according to Form V.—Jap. Reg. 1904.

ART. XCV. When a prize officer, while in charge of a captured vessel, receives any new documents or finds or picks up those mutilated or thrown away or hidden, he shall put them in order, number them, and affix to them a certificate prepared according to Form XI.—Jap. Reg. 1904.

ART. 177. When a prize officer, while navigating the vessel, receives any new documents or finds or picks up those mutilated or thrown away or hidden, he shall prepare a list of them and seal the documents, and attach them to the report made according to Form No. 21.—Jap. Reg. 1914.

#### Inventory.

ART. XCIII. A prize officer, when ordered to take possession of a captured vessel, shall prepare an inventory according to Form X, of the stores, furniture, and cargo, so far as it can be ascertained without disturbing the stowage. In preparing this inventory the prize officer may request assistance of the master of the vessel, and shall give him a copy of the inventory signed by himself.—Jap. Reg. 1904; art. 175, Reg. 1914.

#### Journal.

ART. XCIV. The prize officer shall keep a journal in which he shall enter events concerning the vessel, cargo, and persons on board.—Jap. Reg. 1904; art. 176, Reg. 1914.

#### Log.

125. He provides for continuing the ship's log book, and will himself keep a journal from the time of coming on board, in which all

events concerning the voyage, the ship, the cargo, and the personnel are to be entered.—Ger. O. 1909.

#### **Transshipment of persons.**

128. If necessary, the prize officer may transship persons and, as far as he is empowered under 110, parts of the cargo to another vessel; the reasons he must enter in the log book. A transshipment is always warranted when it is done in the interest of the safety of persons or preservation of the cargo.—Ger. O. 1909.

#### **Landing or transshipment.**

ART. XCVII. The prize officer may land or tranship the persons and cargo on board the captured vessel, but only in case of pressing necessity. In this case he shall prepare a certificate according to Form XII, stating the persons and goods landed or transshipped and the reason for such action. The persons and goods landed or transshipped shall be sent without delay by the most convenient means to the Imperial prize court.—Jap. Reg. 1904; art. 179, Reg. 1914.

### **PERSONNEL**

#### **Treatment of personnel.**

ART. 101. En dehors des personnes susceptibles d'être considérées comme prisonniers de guerre ou d'être punies, le belligérant ne peut retenir, sur le navire saisi, que pendant un délai raisonnable, celles qu'il est nécessaire d'entendre comme témoins pour la constatation des faits: à moins d'empêchement absolu il doit les remettre en liberté après que procès-verbal de leurs dépositions a été dressé.

Si des circonstances spéciales le commandant, le capitaine, les officiers et une partie de l'équipage du navire saisi peuvent être pris à bord du capteur.

Le capteur pourvoira à l'entretien des personnes retenues et leur donnera, en tout cas, ainsi qu'aux personnes de l'équipage, lors de leur mise en liberté, les moyens provisoirement nécessaires pour leur entretien ultérieur.—Institut, 1913.

93. The United States may give the same treatment to nationals of enemy or neutral countries who legally come into the power of the United States by capture on the high seas that it gives to enemy or neutral nationals within its territory or jurisdiction.—U. S. Ins. 1917.

ART. 104. (b) Master and crew of captured ships—as far as they have not been made prisoners of war—have nevertheless to continue the performance of their previous duties until their release. The use of force, if in any way possible, is to be avoided. In other respects they remain in full enjoyment of their rights, as far as the circumstances of the war do not require otherwise.—Ger. O. 1909.

13. (e) Attitude toward passengers and crew.—No special measures are to be taken in regard to the passengers and crew on normal occasions. The authorities will decide to what extent they are to be given their freedom on arrival in port.—Ger. P. C. 1916.

ART. 121. The crew, passengers, and prisoners of war on board a captured vessel shall be given proper treatment, and care must be taken to protect their private property. With regard to prisoners of war, restraints may be put upon them, as necessary, but with regard to the crew and passengers, no restraint shall be put upon them unless there is special reason.—Jap. Reg. 1914.

105. When circumstances require it, persons found on board captured ships may be removed to another ship, even on board the warship. Their retention on board the warship may not be extended longer than absolutely necessary.—Ger. O. 1909.

140. Dans le cas où vous n'y verriez aucun danger, vous pourriez maintenir à leur bord le capitaine et tout ou partie de l'équipage du navire de commerce capturé.—Fr. Ins. 1912.

145. Dans des circonstances exceptionnelles, le capteur peut expédier directement au port de prise, avec les pièces de procédure, les personnes (capitaine, officiers, ou membres de l'équipage du navire capturé, au nombre de trois au moins) dont la présence est nécessaire à l'instruction de la prise. Leur arrivée devra précéder celle de la prise elle-même.—Fr. Ins. 1912.

ART. L. The masters and crews of enemy's merchant vessels may be made prisoners. Passengers, and the master and crew of a vessel not enemy, shall not be made prisoners. In case it is necessary to call them as witnesses they may be detained.—Jap. Reg. 1904.

28. With the exception of officers and crew of the captured ship participating in any hostile acts, the passengers and the crew shall be subject to the following treatment:

(a) The captain, officers, and crew of enemy nationality shall be considered as prisoners of war, but they shall be released, provided that they give a written statement that they shall not be engaged in any service directly or indirectly in connection with the war in the interests of the enemy countries as long as the war lasts.

(b) If the captain, or officers of the vessel are of neutral nationality, they shall not be considered as prisoners of war provided that they give a written statement that they shall not be engaged in service on board of enemy ships during the war.

(c) The crew or other hands of neutral nationality on board the captured vessel shall not be considered as prisoners of war.

—China, Reg. 1917.

ART. LXIX. The captain of the man-of-war shall land at a convenient port when possible all the passengers of a captured vessel, except those who are deemed to be contraband persons or those who must be detained as witnesses.—Jap. Reg. 1904.

29. With the exception of the prisoners of war and those necessary for witnesses, all the passengers on board the captured ship shall be permitted to land at the nearest port.—China, Reg. 1917.

ART. LXXVIII. The captain and the officers of the man-of-war shall treat with proper courtesy the master and crew of the captured vessel and those who are to be made prisoners and shall pay proper attention to the protection of their personal effects. Those who are to be made prisoners may be kept under restraint as required, but other persons on board shall not be restrained unless there is a special reason.—Jap. Reg. 1904.

ART. 55. A. *Personnel des navires—Bâtiments de guerre.*—En cas de capture par l'ennemi d'un bâtiment de guerre, les combattants et les noncombattants faisant partie de la force armée des belligérants ont droit au traitement des prisonniers de guerre.—Institut, 1913.

146. Si le navire capturé est un bâtiment de guerre, vous transborderez le capitaine, la majeure partie des officiers, une portion de l'équipage, et vous conduirez ces prisonniers dans un port français ou allié, ou occupé par les forces armées françaises ou alliées.—Fr. Ins. 1912.

ART. 5. When an enemy merchant ship is captured by a belligerent, such of its crew as are nationals of a neutral State are not made prisoners of war. The same rule applies in the case of the captain and officers likewise nationals of a neutral State, if they promise formally in writing not to serve on an enemy ship while the war lasts.—XI, H. C. 1907.

ART. 7. The names of the persons retaining their liberty under the conditions laid down in article 5, paragraph 2, and in article 6, are notified by the belligerent captor to the other belligerent. The latter is forbidden knowingly to employ the said persons.—XI, H. C. 1907.

ART. 56. *Navires publics ou privés.*—Lorsqu'un navire ennemi public ou privé est saisi par un belligérant, les hommes de son équipage, nationaux d'un État neutre, ne sont pas faits prisonniers de guerre. Il en est de même du capitaine et des officiers également nationaux d'un État neutre, s'ils promettent formellement par écrit de ne prendre, pendant la durée des hostilités, aucun service ayant rapport avec les opérations de la guerre. Le capitaine, les officiers et les membres de l'équipage, nationaux de l'État ennemi, ne sont pas faits prisonniers de guerre, à condition qu'ils s'engagent, sous la foi d'une promesse formelle écrite, à ne prendre, pendant la durée des hostilités, aucun service ayant rapport avec les opérations de la guerre.—Institut, 1913.

135. Lorsque vous aurez capturé un navire de commerce ennemi, les hommes de son équipage, nationaux d'un État neutre, ne seront pas faits prisonniers de guerre.—Fr. Ins. 1912.

136. Il en sera de même du capitaine et des officiers, également nationaux d'un État neutre, s'ils promettent formellement par écrit de ne pas servir sur un navire ennemi pendant la durée de la guerre.—Fr. Ins. 1912.

ART. 112. In the case of capture of an enemy merchant vessel neutral members of the crew shall not be made prisoners of war.—Jap. Reg. 1914.

ART. 113. The master and officers of an enemy vessel who have neutral nationality shall not be made prisoners of war if they formally promise in writing that they will not serve in enemy vessels during the continuation of the war.—Jap. Reg. 1914.

ART. 6. The captain, officers, and members of the crew, when nationals of the enemy State, are not made prisoners of war, on condition that they make a formal promise in writing not to undertake, while hostilities last, any service connected with the operations of the war.—XI, H. C. 1907.

137. Le capitaine, les officiers et les membres de l'équipage, nationaux de l'État ennemi, ne seront pas faits prisonniers de guerre, à la condition qu'ils s'engagent, sous la foi d'une promesses formelle écrite, à ne prendre pendant la durée des hostilités aucun service ayant rapport avec les opérations de la guerre.—Fr. Ins. 1912.

100. If a ship is captured under 10 to 16(a) as an enemy ship, or under 55(b), (c), (d), because of unneutral service, the master, officers, and members of the crew, as far as they are of the enemy's nationality, will not be made prisoners of war if they bind themselves on the strength of a formal written promise to engage in no service, during the period of the war, that may have any connection with the hostile undertakings of the enemy. So far as the crew belong to a neutral State they may be released unconditionally. If the master and officers have neutral nationality, they are to be released if they give a formal written agreement to take service in no enemy ship during the period of the war.—Ger. O. 1909.

138. Vous remettrez aux intéressés reçus des promesses qu'ils auraient faites dans les termes des paragraphes 136 et 137. En outre, vous aurez soin de me faire connaître et de porter à la connaissance de l'ennemi, par toutes voies possibles, les noms des individus laissés libres dans les conditions visées aux susdits paragraphes.—Fr. Ins. 1912.

ART. 114. The master, officers, and other members of the crew of an enemy vessel who are of enemy nationality shall not be made prisoners of war if they duly swear in writing that they will not, during the continuation of the war, serve in any duty connected with hostile operations.—Jap. Reg. 1914.

ART. 115. The master, officers, and other members of the crew of an enemy vessel who have formally promised or taken oath in

accordance with the provisions of the preceding two articles shall be set at liberty: In this case the commanding officer of the man-of-war shall immediately report the names of the persons set at liberty to the Minister of the Navy, and shall try to notify the enemy of the same through proper channels, as far as possible.—Jap. Reg. 1914.

#### Nationality.

ART. 58. Toute personne faisant partie de l'équipage d'un navire public ou privé ennemi est, sauf preuve contraire, présumée de nationalité ennemie.—Institut, 1913.

142. Toute personne trouvée à bord d'un navire de commerce ennemi est, sauf preuve contraire, présumée de nationalité ennemie.—Fr. Ins. 1912.

ART. 117. Members of the crew on board an enemy vessel are presumed to be of enemy nationality unless there is proof to the contrary.—Jap. Reg. 1914.

#### Of enemy vessel, resisting capture.

92. The captain, officers, and crew of an enemy merchant ship which has resisted capture may be made prisoners of war.—U. S. Ins. 1917.

99. If a ship is captured under 16(b) (resistance) or 55(a) (taking part in hostilities), those persons who without being enrolled in the enemy forces have taken part in the hostilities or have exerted forcible resistance may be dealt with according to the customs of war. The other persons of the crew will be made prisoners of war.—Ger. O. 1909.

#### Of enemy vessel, exempt.

ART. 64. C. *Personnel religieux, médical et hospitalier.*—Le personnel religieux, médical et hospitalier de tout bâtiment pris ou saisi est inviolable et ne peut être fait prisonnier de guerre. Il emporte, en quittant le navire, les objets et les instruments de chirurgie qui sont sa propriété particulière.

Ce personnel continuera à remplir ses fonctions tant que cela sera nécessaire et il pourra ensuite se retirer, lorsque le commandant en chef le jugera possible.

Les belligérants doivent assurer à ce personnel tombé entre leurs mains les mêmes allocations et la même solde qu'au personnel des mêmes grades de leur propre marine.

Jouit de la protection dont bénéficie le personnel sanitaire, le commissaire mis par le belligérant à bord du bâtiment hospitalier de son adversaire, conformément à l'alinéa 10 de l'article 41.

Le personnel religieux, médical et hospitalier perd ses droits à l'inviolabilité, s'il s'immisce dans les hostilités, si, par exemple, il fait usage de ses armes autrement que comme moyen de défense.—Institut, 1913.

**Of enemy merchant vessels, notification.**

ART. 57. Les noms des individus laissés libres notifiés par le belligérant capteur à l'autre belligérant. Il est interdit à ce dernier d'employer sciemment les dits individus.—Institut, 1913.

**Of enemy merchant vessels taking part in hostilities.**

ART. 60. *Sous la condition de la promesse prévue par l'article précédent.*—Lorsqu'un navire public ou privé a directement ou indirectement pris part aux hostilités, l'ennemi peut retenir comme prisonniers de guerre tous les membres du personnel du navire, sans préjudice des pénalités qui peuvent être prononcées d'autre part.—Institut, 1913.

ART. 61. Les membres du personnel d'un navire public ou d'un navire privé, qui se rendent personnellement coupables d'un acte hostile envers l'ennemi, peuvent être retenus par lui comme prisonniers de guerre, sans préjudice des pénalités qui peuvent être encourues d'autre part.—Institut, 1913.

**Of enemy merchant vessels, passengers, and followers.**

ART 62. B. *Passagers.*—Les individus qui suivent une force navale sans en faire partie, tels que les fournisseurs, correspondants de journaux, etc., lorsqu'ils tombent au pouvoir de l'ennemi, et lorsque celui-ci juge utile de les retenir, ne peuvent être détenus qu'aussi longtemps que les nécessités militaires l'exigent. Ils ont droit au traitement des prisonniers de guerre.—Institut, 1913.

ART. 63.—Les passagers qui, sans faire partie de l'équipage, se trouvent à bord d'un navire ennemi, ne peuvent être retenus comme prisonniers de guerre par l'ennemi, à moins qu'ils ne se soient rendus coupables d'un acte hostile. Tout passager incorporé dans la force armée de l'ennemi peut être fait prisonnier de guerre, même si le navire n'est pas susceptible de saisie.—Institut, 1913.

143. Les passagers sont libres et peuvent débarquer dans le premier port où le bâtiment aborde.—Fr. Ins. 1912.

103. Passengers on board captured ships are to be left free from restraint and, with the exception of necessary witnesses, are to be released as soon as practicable.—Ger. O. 1909.

ART. 104. (c) The passengers of captured ships shall be restricted in their rights only in serious cases, for instance, on account of rendering unneutral service.—Ger. O. 1909.

ART. 119. The passengers on board a captured vessel, excepting those who have been embodied in military forces of the enemy, shall be landed at a convenient place as soon as practicable. Of the passengers mentioned in the preceding paragraph, those who are needed as witnesses may be detained.—Jap. Reg. 1914.

**Of enemy merchant vessels, exemption.**

ART. 59. Ne peuvent être retenus comme tels les membres du personnel d'un navire ennemi qui, à raison de son caractère particulier, est lui-même exempt de saisie.—Institut, 1913.

**Of neutral vessel.**

101. If a neutral ship is captured according to 39, for contraband, or under 77, 78, for breach of blockade, or under 51, for unneutral service, the entire crew, including the master and officers, will be released unconditionally.—Ger. O. 1909.

ART. 118. Members of the crew of a captured neutral vessel shall not be made prisoners of war. However, they may be detained if it is considered that they are needed as witnesses.—Jap. Reg. 1914.

**Of hospital ships.**

ART. VII. The religious, medical, and hospital staff of any captured vessel are declared neutral, and, on leaving the ship, may remove the articles and surgical instruments which are their private property.—Spain, Ins. 1898.

ART. 10. The religious, medical, and hospital staff of any captured ship is inviolable, and its members can not be made prisoners of war. On leaving the ship they take away with them the objects and surgical instruments which are their own private property. This staff shall continue to discharge its duties while necessary, and can afterwards leave, when the commander in chief considers it possible. The belligerents must guarantee to the said staff, when it has fallen into their hands, the same allowances and pay which are given to the staff of corresponding rank in their own navy.—X, H. C. 1907.

ART. 120. Enemy persons on board a captured vessel who are employed in religious, medical, or nursing duties shall not be made prisoners of war, but those of whom there are suspicious circumstances may be detained until definite proof is obtained.—Jap. Reg. 1914.

ART. VIII. The staff designated in the preceding article must continue to fulfill their functions in the captured ship, assisting in the removal of the wounded made by the victorious party; they will then be at liberty to return to their country in conformity with the second paragraph of the first additional article. The stipulations of the second additional article are applicable to the pay and allowance of the staff already mentioned.—Spain, Ins. 1898.

**Of cartel vessels.**

ART. 65. D. *Parlementaires*.—Le personnel des navires de cartel est inviolable. Il perd ses droits à l'inviolabilité s'il est prouvé d'une

manière positive et irrécusable qu'il a profité de sa position privilégiée pour provoquer ou commettre un acte de trahison.—Institut, 1913.

#### Release.

102. The release will be accomplished by discharge from a board when the prize is delivered. The necessary witnesses are, however, to be held. The names of the conditionally released enemy and neutral persons are to be reported direct to the chief of the admiralty staff for communication to the hostile power.—Ger. O. 1909.

### BRINGING IN

#### To port.

ART. 102. Le navire saisi doit être conduit dans un port de l'Etat capteur ou dans celui d'une puissance belligérante alliée, aussi proche que possible, susceptible d'offrir un abri sûr et ayant des communications faciles avec le tribunal des prises chargé de statuer sur la capture. Pendant le voyage, la prise naviguera avec le pavillon et la flamme, insigne des navires militaires de l'Etat.—Institut, 1913.

ART. 109. *Jugement des prises.*—Le navir saisi et son chargement, une fois entrés dans un port de l'Etat capteur ou dans celui d'une puissance alliée, sont remis à l'autorité compétente, avec tous les documents nécessaires.—Institut, 1913.

80. Except under extraordinary circumstances, prizes shall be sent promptly to a port within the jurisdiction of the United States for adjudication. In general, a prize master with a crew shall be sent on board the prize for this purpose. If for any reason this is impracticable, a prize may be escorted into port by the capturing vessel or by another vessel of war of the United States or of an ally. In this exceptional case the prize shall be directed to lower her flag and to steer according to the orders of the escorting vessel of war. The prize must obey the instructions of the escorting vessel, under pain of forcible measures.—U. S. Ins. 1917.

128. Sauf le cas de force majeure indiqué ci-dessous, les prises sont dirigées sur les ports de France ou des possessions françaises, ou appartenant à un Gouvernement allié.—Fr. Ins. 1912.

22. Detained vessels and cargoes are conducted by the detaining vessel into Russian ports, and if there are none such in the vicinity, then into the ports of an allied power or to the active Russian fleet (the fleet engaged in operations). In case of storm or other extreme necessity the detaining vessel may, together with the detained vessel, seek shelter in the port of a neutral power. Regarding the period and conditions of remaining in port, the commander of the detaining vessel is obliged to submit to the rules established on this subject by the local government.—Rus. Reg. 1895.

39. Detained vessels and cargoes are, in the discretion of the imperial cruiser, conducted into port or to the active fleet either by the cruiser itself or they proceed independently into port under the direction of a Russian officer and crew, commanders being governed in these cases by the rules set forth in articles 351-353 of the Navy Regulations, edition of 1899. In case the detained vessel is sent off separately, its original ship's papers and the documents concerning the detention are kept with the commander of the cruiser, while the officer conducting the vessel is given copies of these papers and documents.—Rus. Ins. 1900.

134. Si le capteur n'escorte pas sa prise parce qu'il juge pouvoir l'expédier directement, le conducteur de la prise doit, à son arrivée au port de destination, remettre à l'autorité maritime :

1. Son rapport de traversée.
2. Les pièces et documents de toute nature visés au paragraphe 116.

Une copie certifiée du procès-verbal de capture et d'apposition des scellés restera entre les mains du capteur.

Il importe à tous les points de vue que le capteur n'omette aucune de ces formalités réglementaires.

—Fr. Ins. 1912.

11. The vessels or goods captured shall be brought to the nearest port in the kingdom, colonies, or territory occupied by Italy, or, this being impossible, to a port of an allied nation or occupied by the latter or in case of absolute necessity to a neutral port. The vessels and goods shall there be placed at the disposal of the maritime and consular authorities as the case requires, together with a report of what has been done, accompanied by the respective declarations and documents.—Italy, P. R. 1915.

81. The procedure prescribed by the Revised Statutes shall be observed :

SEC. 4515. The commanding officer of any vessel making a capture shall secure the documents of the ship and cargo, including the log book, with all other documents, letters, and other papers found on board, and make an inventory of the same and seal them up and send them, with the inventory, to the court in which proceedings are to be had, with a written statement that they are all the papers found and are in the condition in which they were found; or explaining the absence of any documents or papers or any change in their condition. He shall also send to such court, as witnesses, the master, one or more of the other officers, the supercargo, purser, or agent of the prize, and any person found on board whom he may suppose to be interested in, or to have knowledge respecting, the title, national character, or destination of the prize. He shall send the prize, with the documents, papers, and witnesses, under charge of a competent prize master and prize crew, into port for adjudication, explaining

the absence of any usual witnesses; and in the absence of instructions from superior authority as to the port to which it shall be sent he shall select such port as he shall deem most convenient, in view of the interests of probable claimants as well as of the captors. If the captured vessel, or any part of the captured property, is not in condition to be sent in for adjudication, a survey shall be had thereon and an appraisement made by persons as competent and impartial as can be obtained, and their reports shall be sent to the court in which proceedings are to be had; and such property, unless appropriated for the use of the Government, shall be sold by the authority of the commanding officer present, and the proceeds deposited with the Assistant Treasurer of the United States most accessible to such court and subject to its order in the cause.

SEC. 4617. The prize master shall make his way diligently to the selected port and there immediately deliver to a prize commissioner the documents and papers, and the inventory thereof, and make affidavit that they are the same and are in the same condition as delivered to him, or explaining any absence or change of condition therein, and that the prize property is in the same condition as delivered to him, explaining any loss or damage thereto; and he shall further report to the district attorney and give him all the information in his possession respecting the prize and her capture; and he shall deliver over the persons sent as witnesses to the custody of the marshal and shall retain the prize in his custody until it shall be taken therefrom by process of the prize court.—U. S. Ins. 1917.

111. The captain will provide for taking the ship, the quickest and safest possible way into a German port or one of an allied power. A prize may be taken into a neutral port only when the neutral power permits the bringing in of prizes. A prize may run into a neutral port always on account of unseaworthiness, heavy weather, or shortage of fuel or stores. In the latter case she must leave the port again as soon as the cause which justified entering no longer exists. The captain gives the prize officer appropriate sailing orders in writing, and so makes up the prize crew that it is possible for the prize officer to take the ship in.—Ger. O. 1909.

#### Of crew.

Art. LXXX. The captain of the man-of-war may request the master and crew of the captured vessel to assist in navigating the vessel under the direction of the prize officer; and in case such request is not complied with, he may insist upon it.—Jap. Reg. 1904; art. 161, Reg. 1914.

#### Meaning of "port."

131. Vous pourrez d'ailleurs considérer comme port pour la mise sous séquestre des navires et des marchandises tout port occupé par

nos forces, où il pourra être procédé aux actes d'instruction et d'administration prescrits par les lois et règlements de la République.—Fr. Ins. 1912.

**Delivery.**

Art. XCVIII. The prize officer, when he arrives at the place of destination, shall deliver the captured vessel to the prize court and shall make a request for examination.—Jap. Reg. 1904; art. 180, Reg. 1914.

131. If the port reached is German or belongs to an allied or a neutral power which allows generally the bringing in of prizes, the prize officer will deliver the prize there. The delivery in a German port will be made to the consular representative of the German Empire, to the competent port authorities, otherwise, or of an allied power with simultaneous delivery of the papers, reports, and other means of evidence, for further transmission to the prize office. At the same time, the persons who under 102 are to be let go free are to be released, so far as they have not to be retained as witnesses.—Ger. O. 1909.

43. Upon the bringing of a detained vessel or cargo into a Russian port it is delivered to the local naval authority (and in the absence of the latter to the port, customs, or police authority), to whom are presented all documents and surrendered all persons detained on the vessel in question for the purpose of elucidating the case. In case the detained vessel or cargo is brought to the active fleet, it is turned over to the commander of the squadron. The proper naval or other authority opens the sealed documents and takes measures for the reception, inventory, and preservation of the surrendered property, as well as for the sale at public auction of those articles which can not be kept, owing to their nature or condition. The following have a right to be present during the performance of the acts in question: Firstly, the commander or one of the officers of the imperial vessel which has made the capture; and, secondly, the master of the detained vessel, as well as the owners of the vessel and cargo or their agents, provided these owners or agents are present at the place in question. All persons present are entitled to make suggestions and observations in regard to the acts of the local authority receiving the property.—Rus. Ins. 1900.

44. In the case of a detained vessel or cargo being brought into the port of an allied power, it is surrendered to the local Russian naval agency, Russian consulate, or other establishment, upon which, after agreement of the Russian Government with the proper foreign authorities, will devolve the duty of receiving the prizes.—Rus. Ins. 1900.

45. The commander of the imperial vessel is obliged to notify the director of the naval ministry by telegraph, at the earliest possible moment, of all vessels and cargoes detained, as well as of their conduction into port and proper delivery.—Rus. Ins. 1900.

ART. LXXIX. The captain of the man-of-war shall send on board the captured vessel a prize officer and the requisite number of petty officers and men, and shall send the vessel and her cargo to a port where there is an imperial prize court or to a Japanese port in the neighborhood of such port.—Jap. Reg. 1904; Art. 160, Reg. 1914.

33. The captain of the captor after the capture shall order the officer in possession of the captured ship to bring the latter to a port where the Prize Court of the Republic is situated, together with all the papers of the vessel, for adjudication.—China, Reg. 1917.

ART. LXXXI. The captain of the man-of-war shall send into port on board the captured vessel the master and crew, and all the cargo and certificates, and the ship's papers, so far as possible, in the same condition in which they were found at the time of capture. The captain of the man-of-war, when he thinks it necessary, shall send an officer who can testify to the circumstances of the capture.—Jap. Reg. 1904; Art. 162, Reg. 1914.

ART. LXXXII. When the captain of the man-of-war thinks that it is not proper to send in the captured vessel, the master, and the whole crew, he shall send at least three or four principal members of the crew as witnesses, and two of them shall be selected from the master, chief purser, mates, and chief seaman. That part of the crew taken to another vessel shall be sent without delay to the port where the captured vessel has been sent.—Jap. Reg. 1904.

ART. 163. When the commanding officer of a ship of war thinks that it is not proper to send in the captured vessel, the master, and the whole crew, at least he shall select a few from the master, chief purser, mates, and officers who have charge of cargo and send them on board as witnesses. That part of the crew taken to another vessel shall be sent without delay to the port where the captured vessel has been sent.—Jap. Reg. 1914.

ART. LXXXIII. In the case of the preceding article, the captain of the man-of-war shall order the prize officer to prepare a certificate according to Form VII, stating that part of the crew taken to another vessel and the reason for it.—Jap. Reg. 1904; art. 164, Reg. 1914.

#### Unseaworthy.

ART. LXXXVIII. When the captain of a man-of-war deems a captured vessel unfit to be sent into port as above prescribed, he shall appoint from among the officers a competent board to investigate the matter and direct them to submit a report. The gist of their report shall be entered in the log book.—Jap. Reg. 1904; art. 169, Reg. 1914.

ART. LXXXIX. If the board reports that the captured vessel is unfit to be sent into port as prescribed, the captain of the man-of-war shall send the vessel to the nearest Japanese port or the nearest neutral port, with the consent of the neutral authorities.—Jap. Reg. 1904.

ART. 170. If the board reports that the captured vessel is unfit to be sent to the port (of the nearest prize court), the commanding officer of the ship of war shall send the vessel to the nearest Japanese port or that of an allied power.—Jap. Reg. 1914.

ART. XC. In the case of the preceding article the captain of the man-of-war shall order the prize officer to prepare a certificate according to Form IX, in which the circumstances of sending the vessel to the nearest Japanese port or to the nearest neutral port shall be stated in detail, and the captain shall order the prize officer to send this certificate, accompanied by the report of the board, and the witnesses, ship's papers, and any other documents required for judicial examination to the nearest imperial prize court.—Jap. Reg. 1904.

ART. 171. In the case of the preceding article, the commanding officer of the ship of war shall order the prize officer to prepare a report according to Form No. 19, stating in detail the circumstances of sending the vessel to the nearest Japanese port or that of an allied power, and to send this report, accompanied by the report of the board, together with the witnesses, the ship's papers, and other documents required for judicial examination to the nearest Japanese prize court.—Jap. Reg. 1914.

#### RELEASE

##### Of innocent vessel.

88. If the officer upon examining the papers forms the opinion that the ship is not liable to capture, he releases her, with the approval of the captain, and after making an entry on the ship's log book and certificate of nationality (visiting ship, time, place of visit, reason for release, name and rank of the captain and of the boarding officer). Before releasing the ship he makes request of the master for a written declaration whether and what objections he has to the carrying out of these measures.—Ger. O. 1909.

8. (P. O. 88, Form 1) Should the ship's papers disclose nothing of a suspicious nature, or the ship herself not be open to suspicion, she is to be released by the examining officer, after he has obtained the approval of the commanding officer and has made an entry in the ship's log or made out a certificate regarding the result of the search. Any complaints made by the master are to be taken down in writing.—Ger. P. C. 1916.

92. If the latter is convinced by the search that the ship is not liable to capture, he will proceed carefully to restore the previous condition of the ship and cargo, according to 88 and 89. Claims of the master for damage are, if possible, to be regulated before the ship is released.—Ger. O. 1909.

97. If proof appears, after the capture has been made, that a ship was wrongfully captured, she is to be released without delay, according to 92. The report mentioned in 96 in this case also, with the data concerning the reasons for release, is to be rendered and by the chief of the Admiralty Staff transmitted to the prize court having jurisdiction.—Ger. O. 1909.

ART. LXX. If the captain of a man-of-war, after capturing a vessel, ascertains that the capture was unlawful, he shall instantly release her.—Jap. Reg. 1904; art. 155, Reg. 1914.

32. After the capture, if the captain of the captor discovers circumstances which do not justify his action, he should set the vessel free at once.—China, Reg. 1917.

119. If the captain believes that a captured ship neither can be brought in nor should be sunk, he must release it under 92.—Ger. O. 1909.

#### Of prize, neutral jurisdiction.

130. Si la prise, en mesure de sortir des eaux neutres, retardait son départ ou ne se conformait pas à l'ordre de partir immédiatement qui lui aurait été notifié par la puissance neutre, cette dernière serait dans son droit strict en usant des moyens dont elle dispose pour relâcher la prise avec ses officiers et son équipage, et interner l'équipage mis à bord par le capteur.—Fr. Ins. 1912.

### REQUISITION

#### Prize, requisition.

ART. 106. *Emploi des navires saisis.*—Si le navire saisi ou sa cargaison est nécessaire au capteur pour un usage public immédiat, il peut les employer à cet usage. Dans ce cas il sera fait du navire et de la cargaison, par des personnes impartiales, une estimation et un inventaire soigneux qui, joints au dossier de la saisie, seront transmis au tribunal des prises.—Institut, 1913.

84. By the Revised Statutes captured vessels may be taken for the use of the United States. Section 4624, Revised Statutes, reads as follows:

Whenever any captured vessel, arms, munitions, or other material are taken for use of the United States before it comes into the custody of the prize court, it shall be surveyed, appraised, and inventoried by persons as competent and impartial as can be obtained, and the survey, appraisement, and inventory shall be sent to the court in which proceedings are to be had; and, if taken afterwards, sufficient notice shall first be given to enable the

court to have the property appraised for the protection of the rights of the claimants and captors. In all cases of prize property taken for or appropriated to the use of the Government the department for whose use it is taken or appropriated shall deposit the value thereof with the assistant treasurer of the United States nearest to the place of the session of the court, subject to the order of the court in the cause. (Sec. 4624 R. S., 1878)

—U. S. Ins. 1917.

85. While any prize may thus be legally converted to immediate public use, and would be under compelling circumstances, it is inadvisable so to convert neutral property taken as prize, because if the prize court fails to condemn the property indemnification for the conversion to public use may be the subject of a claim.—U. S. Ins. 1917.

1. Where it is made to appear to the judge on the application of the proper officer of the Crown that it is desired to requisition on behalf of His Majesty a ship in respect of which no final decree of condemnation has been made, he shall order that the ship shall be appraised, and that upon an undertaking being given in accordance with rule 5 of this order, the ship shall be released and delivered to the crown.

2. Where a decree for the detention of a ship has been made in accordance with order 28, the proper officer of the Crown may file a notice that the Crown desires to requisition the same, and thereupon a commission to the marshal directing him to appraise the ship shall issue. Upon an undertaking being given in accordance with rule 5 of this order the ship shall be released and delivered to the Crown. Service of this notice shall not be required before filing, but copies thereof shall be served upon the parties by the proper officer of the Crown as soon thereafter as possible.

3. Where in any case of requisition under this order it is made to appear to the judge on behalf of the Crown that the ship is required for the service of His Majesty forthwith, the judge may order the same to be forthwith released and delivered to the Crown without appraisement.

4. In any case where a ship has been requisitioned under the provisions of this order, and whether or not an appraisement has been made, the court may, on the application of any party, fix the amount to be paid by the Crown in respect of the value of the ship.

5. In every case of requisition under this order an undertaking in writing shall be filed by the proper officer of the Crown for payment into court on behalf of the Crown of the appraised value of the ship, or of the amount fixed under rule 4 of this order, as the case may be, at such time or times as the court shall declare by order that the same or any part thereof is required for the purpose of payment out of court.

6. Where in any case of requisition under this order it is made to appear to the judge on behalf of the Crown that the Crown desires to requisition the ship temporarily, the court may, in lieu of an order of release, make an order for the temporary delivery of the ship to the Crown, and, subject as aforesaid, the provisions of this order shall apply to such a requisition; provided that, in the event of the return of the ship to the custody of the court, the court may make such order as it thinks fit for the release of the undertaking given on behalf of the Crown or the reduction of the amount undertaken to be paid thereby, as the case may be; and provided also that, where the ship so requisitioned is subject to the provisions of order 28, rule 1, relating to detention, the amount for which the Crown shall be considered liable in respect of such requisition shall be the amount of damage, if any, which the ship has suffered by reason of such temporary delivery as aforesaid.

7. The proceedings in respect of a ship requisitioned under this order shall continue notwithstanding the requisition.

8. In any case of requisition of a ship in respect of which no cause has been instituted, any person interested in such ship may, without issuing a writ, provided he does not intend to make a claim for restitution or damages, apply by summons for an order that the amount to be paid in respect of such ship be fixed by the court, and the judge may, on the hearing of such summons, order the ship to be appraised or to be valued, or give such other directions for fixing the amount as he may think fit.—Br. O. in C. No. 29, Mar. 23, 1915.

148. Si l'intérêt public l'exige, vous pourrez réarmer les navires ennemis capturés et les employer pour les besoins du service, après en avoir, autant que possible, fait dresser un inventaire sommaire avec estimation.—Fr. Ins. 1912.

112. The captain is authorized to employ a ship which has been captured as hostile under 10 and 16, as an auxiliary vessel, or if its sending in seems not to the purpose or unsafe, to destroy it. The same holds for a ship captured under 56, if it is certain that an unneutral service of serious nature can be proved before the prize court.—Ger. O. 1909.

41. If the detained vessel subject to destruction on the basis of the foregoing article is found to be better than the imperial vessel, owing to its condition or its seagoing qualities, the commander has the right to substitute the prize for his own vessel and burn or sink the latter.—Rus. Ins. 1900.

ART. 132. Captured enemy vessels, when it is considered that there is military necessity, may be armed or be used for any other military purposes.—Jap. Reg. 1914.

### **Removal of persons.**

ART. 133. Before using a captured enemy vessel for military purposes, the commanding officer of the ship of war shall remove all the persons on board the vessel to a place of safety and shall take on board his ship all papers necessary for trial.—Jap. Reg. 1914.

127. He may take goods from the cargo, in the master's presence and against a receipt, which the execution of his orders may require.—Ger. O. 1909.

ART. 135. With regard to the use of goods found on board a captured enemy vessel and which are considered to be enemy goods, the provisions of this chapter are applicable.—Jap. Reg. 1914.

### **Of cargo.**

149. Vous pourrez également utiliser, pour le service de la flotte, les cargaisons des navires ennemis, après en avoir fait dresser un inventaire estimatif détaillé.—Fr. Ins. 1912.

150. Vous aurez également la faculté d'en agir ainsi pour les approvisionnements du navire, notamment pour les combustibles et les matières grasses.—Fr. Ins. 1912.

110. His Majesty's ships and allied men-of-war and captured prizes may in case of necessity, fill their needs from the cargo, equipage, and supplies of captured hostile ships, giving receipts therefor, so far as the articles are not proved unquestionably to be neutral goods.

In regard to neutral ships, this is only permissible when neither the master can be persuaded to give over what is necessary as a purchase or in accordance with No. 46, or the matter concerns articles which are liable to confiscation and under No. 117 or 121, would be taken on board in case of the destruction or release of the neutral ship. Violations would give rise to legal claims on the part of the neutral powers concerned.—Ger. O. 1909.

### **Of enemy vessels, report.**

ART. 134. In the case of using a captured enemy vessel, the commanding officer of the ship of war shall prepare a report according to Form No. 11, stating the circumstances which have led him to use the vessel, and shall order the prize officer to send it to the nearest Japanese prize court, together with the persons on board and the ship's papers and other documents taken on board his ship. He shall also make a report similar to the one mentioned in the preceding paragraph relating to the using of the vessel to the Minister of the Navy.—Jap. Reg. 1914.

151. Les procès-verbaux rédigés en exécution de ces dispositions devront être joints au dossier de la prise; un double en sera adressé au Ministre de la Marine, et un autre au capitaine du navire capturé.—Fr. Ins. 1912.

**Forbidden.**

9. The captain is not authorized, in return for a payment of damages, to requisition ships or goods which are not subject to seizure or capture, against the consent of the interested party.—Ger. O. 1909.

**SEQUESTRATION****Of prize.**

ART. 23. A neutral power may allow prizes to enter its ports and roadsteads, whether under convoy or not, when they are brought there to be sequestered pending the decision of a prize court. It may have the prize taken to another of its ports. If the prize is convoyed by a warship, the prize crew may go on board the convoying ship. If the prize is not under convoy, the prize crew are left at liberty.—XIII, H. C. 1907.

**Definition.**

*Preliminary note.*—Le séquestre est l'acte par lequel le Gouvernement ou les autorités compétentes d'un port retiennent le navire et sa cargaison, soit provisoirement en vue d'un jugement ultérieur du Conseil des prises, soit pendant la durée de la guerre pour des raisons d'ordre militaire.—Fr. Ins. 1912.

**In neutral port.**

132. Bien que, aux termes de l'article 23 de la XI Convention de la Haye, une Puissance neutre ait la faculté de permettre l'accès de ses ports et rades aux prises escortés ou non, lorsqu'elles y sont amenées pour être laissées sous séquestre en attendant la décision du tribunal des prises, vous ne cherchez à user de cette autorisation que si les circonstances vous y obligent et qu'après vous être assuré que ladite Puissance neutre permettra réellement l'accès de ses ports et rades à vos prises dans les conditions le l'article 23 précité.—Fr. Ins. 1912.

**Forbidden.**

ART. 173. A captured vessel shall not be sent to a neutral port in order to detain her until there has been a decision of the Japanese prize court.—Jap. Reg. 1914.

**DESTRUCTION****Destruction of prizes.**

12. When observance of the provisions of the preceding article may endanger the safety of the ship affecting the capture, or may interfere with the success of operations of war in which she is engaged, naval commanding officers may destroy the prize after providing for the safety of the persons on board and the ship's papers and manifests and of anything else which may help in deciding the legitimacy of

the capture. The destruction of a prize must be justified in a special procès-verbal.—Italy, P. R. 1915.

21. In extraordinary cases, when the preservation of a detained vessel proves impossible in consequence of its bad condition or extremely small value (sic), the danger of its recapture by the enemy, or the considerable distance or blockade of the ports, as well as of danger threatening the detaining vessel or the success of its operations, the naval commander is permitted, on his personal responsibility, to burn or sink the detained vessel after having first taken all the people off it, and, as far as possible, the cargo on board, and also after having taken measures for preserving the documents and other objects found on board, and which might prove essential in elucidating matters when the case is examined according to the method prescribed for prize cases.—Rus. Reg. 1895.

40. In the following and other similar extraordinary cases the commander of the imperial cruiser has the right to burn or sink a detained vessel after having previously taken therefrom the crew, and, as far as possible, all or part of the cargo thereon, as well as all documents and objects that may be essential in elucidating the matter in the prize court:

(1) When it is impossible to preserve the detained vessel on account of its bad condition.

(2) When the danger is imminent that the vessel will be recaptured by the enemy.

(3) When the detained vessel is of extremely little value, and its conduct into port requires too much waste of time and coal.

(4) When the conducting of the vessel into port appears difficult owing to the remoteness of the port or a blockade thereof.

(5) When the conducting of the detained vessel might interfere with the success of the naval war operations of the imperial cruiser or threaten it with danger. The officer prepares a memorandum under his signature and that of all the officers concerning the circumstances which have led him to destroy the detained vessel, which memorandum he transmits to the authorities at the earliest possible moment.

NOTE.—Although article 21 of the Regulations on Maritime Prizes of 1895 permits a detained vessel to be burned or sunk “on the personal responsibility of the commander,” nevertheless the latter by no means assumes such responsibility when the detained vessel is actually subject to confiscation as a prize, and the extraordinary circumstances in which the imperial vessel finds itself absolutely demand the destruction of the detained vessel.—Rus. Reg. 1900.

ART. XCI. In the following cases, and when it is unavoidable, the captain of the man-of-war may destroy a captured vessel or dispose of her according to the exigency of the occasion. But before so destroying or disposing of her he shall tranship all persons on board, and as far as possible the cargo also, and shall preserve

the ship's papers and all other documents required for judicial examination:

- (1) When the captured vessel is in very bad condition, and can not be navigated on account of the heavy sea.
- (2) When there is apprehension that the vessel may be recaptured by the enemy.
- (3) When the man-of-war can not man the prize without so reducing her own complement as to endanger her safety.

—Jap. Reg. 1904.

35. Under any of the following circumstances, the captain of the captor may destroy the captured vessel, but before the destruction of the vessel, all the persons on board the vessel and its papers must be placed in safety:

- (a) That the captured vessel is no longer seaworthy.
- (b) That the existence of the captured vessel shall greatly impede the movement of the captor from the military point of view.

—China, Reg. 1917.

#### Neutral vessel.

ART. 49. As an exception, a neutral vessel captured by a belligerent ship and which would be liable to condemnation, may be destroyed if the observance of article 48 would involve danger to the ship of war or to the success of the operations in which she is at the time engaged.—D. of L. 1909.

ART. 126. A neutral vessel captured and which would be liable to condemnation, may be destroyed, if taking such vessel to a Japanese port would involve danger to the Japanese ship of war or to the success of the operations in which she is at the time engaged.—Jap. Reg. 1914.

95. Engaging in unneutral service as defined in paragraph 39 stamps a neutral vessel with hostile character and such a neutral vessel made prize may be destroyed by the capturing officer in the case of military necessity, when the vessel can not be sent or brought in for adjudication.—U. S. Ins. 1917.

96. Owing to the serious responsibility involved, a neutral vessel not engaged in unneutral service as defined in paragraph 39, must not be destroyed by the capturing officer save in case of the gravest military emergency which would not justify him in releasing the vessel or sending it in for adjudication. If circumstances permit, it is preferable to appraise and sell the prize, as provided in section 4615, Revised Statutes, rather than to destroy it.—U. S. Ins. 1917.

157. Par exception, un navire neutre capturé dont la confiscation vous apparaîtrait certaine peut être détruit, si sa conservation et son convoi peuvent compromettre la sécurité de votre bâtiment ou le succès des opérations dans lesquelles vous êtes engagé.—Fr. Ins. 1912.

113. The captain is authorized to destroy a neutral ship which has been captured because of contraband under 39 or under 77, 78 because of breach of blockade, or under 51 because of unneutral service, only when—

- (a) It is subject to confiscation, and when, besides,
- (b) taking it in would cause a danger to the man-of-war or risk the success of the undertaking in which she is at the time engaged.

This is to be assumed among other things when—

- (a) The ship can not be brought in on account of her bad condition or because of shortage of stores.
- (b) The ships can not follow the man-of-war, and therefore recapture is probable, or
- (c) The proximity of an enemy force makes the recapture of the ship probable, or
- (d) The man-of-war can not spare a sufficient crew.

—Ger. O. 1909.

33. The destruction of a neutral ship is only permissible if both of the following conditions are fulfilled:

(a) If in bringing her into port the war vessel is exposed to danger or the success of the operations in which she is engaged is thereby imperiled; this condition obtains, for instance, if the war vessel can not spare sufficient men to form a prize crew, or if the neutral ship can not follow the war vessel, or if the presence of hostile forces in the vicinity causes apprehensions of her recapture.

(b) (P. O. 41) If the ship is liable to seizure, because the contraband as reckoned by value or weight or volume or freight dues amounts to more than half the cargo.

P. O. 115. Not only must both conditions be fulfilled but the commanding officer must expressly state in the prize report that they did obtain.

If the first condition was not fulfilled, compensation would have to be paid for the ship and the whole cargo, regardless of the fact that ship and cargo were liable to seizure. If the first condition were fulfilled but not the second, compensation would have to be paid in any case, not only for the ship but for the whole portion of the neutral cargo which was not liable to seizure.

Special care should on that account be taken in appraising the value in accordance with paragraph (b) in cases where it is doubtful if that part of the cargo which is not contraband does not exceed that portion which may be contraband all articles in the cargo which are not definitely known to be contraband must be omitted from the appraisement. For example, the following should not be regarded as undoubted contraband: Machinery, machinery parts, iron, iron ores, iron tubes, steel tubes, etc., unless it has been ascertained that these general terms only serve to cover actual contraband, e. g., tool

machines for the manufacture of war material, raw material for shells, raw hematite iron, hematite iron ore, etc.

Ship's papers, and especially cargo papers, should always be secured and transmitted together with the prize report direct to the admiralty staff.—Ger. P. C. 1916.

129. If it is not possible to take the ship into the port ordered, he will seek another into which the prize may be taken. If this also is not possible, he will proceed to destroy the ship, under the provisions of Nos. 112 to 118, as soon as the safe salving of the persons, papers, and articles of evidence on board the ship has been accomplished. The requirements of No. 123 are to be observed.—Ger. O. 1909.

#### **Neutral vessel, proof of necessity.**

ART. 51. A captor who has destroyed a neutral vessel must, as a condition precedent to any decision upon the validity of the capture, establish in fact that he only acted in the face of an exceptional necessity, such as is contemplated in article 49. Failing to do this, he must compensate the parties interested without examination as to whether or not the capture was valid.—D. of L. 1909.

159. Je vous rappelle que le capteur qui a détruit un navire neutre doit, préalablement à tout jugement sur la validité de la capture, justifier en fait avoir agi en présence d'une nécessité exceptionnelle dans le sens du paragraphe 157.—Fr. Ins. 1912.

#### **Neutral vessel, forbidden.**

ART. 48. A captured neutral vessel is not to be destroyed by the captor, but must be taken into such port as is proper in order to determine there the rights as regards the validity of the capture.—D. of L. 1909.

ART. 125. A captured neutral vessel is not to be destroyed by the commanding officer of a man-of-war making the capture.—Jap. Reg. 1914.

156. Un navire neutre capturé ne peut être détruit par le capteur; mais il doit être conduit dans un port national ou allié, pour y être statué ce que de droit sur la validité de la capture.—Fr. Ins. 1912.

#### **Neutral vessel, compensation.**

ART. If the capture of a neutral vessel, of which the destruction has been justified, is subsequently held to be invalid, the captor must compensate those interested in place of the restitution to which they would have been entitled.—D. of L. 1909.

115. If a neutral ship be destroyed when, according to the decision of the prize court, the special circumstances named under 113(b) did not exist, the owners of the ship and cargo—whether these be confiscable or not—have a claim for damages. If the circumstances

in question did exist, but the destroyed ship or neutral goods be shown not confiscable, the respective owners have also a claim for damages.—Ger. O. 1909.

#### **Neutral vessel, responsibility.**

ART. 128. The commanding officer of a ship of war who has destroyed a neutral vessel must, as a condition precedent to any decision upon the validity of the capture, establish in fact that he only acted in the face of an exceptional necessity such as is contemplated in article 126.—Jap. Reg. 1914.

114. Before the captain decides to destroy the ship, he will consider whether the injury thereby done to the enemy will outweigh the damages that will have to be paid for the simultaneous destruction of the nonconfiscable part of the cargo.—Ger. O. 1909.

#### **Neutral vessel, cargo.**

ART. 53. If neutral goods which were not liable to condemnation have been destroyed with the vessel, the owner of such goods is entitled to compensation.—D. of L. 1909.

ART. 54. The captor has the right to require the giving up of, or to proceed to destroy, goods liable to condemnation found on board a vessel which herself is not liable to condemnation, provided that the circumstances are such as to justify the destruction of a vessel liable to condemnation. The captor enters the goods delivered or destroyed in the log book of the vessel stopped, and must procure from the master duly certified copies of all relevant papers. When the giving up or destruction has been completed, and the formalities have been fulfilled, the master must be allowed to continue his voyage. The provisions of article 51 and 52 respecting the obligations of a captor who has destroyed a neutral vessel are applicable.—D. of L. 1909.

160. Si le navire n'est pas sujet à confiscation ou s'il y a doute, vous aurez la faculté d'exiger la remise ou de procéder à la destruction des marchandises confiscable trouvées à bord dudit navire, lorsque les circonstances justifieraient la destruction d'un navire passible de confiscation. Vous mentionnerez alors les objets livrés ou détruits sur le livre de bord du navire arrêté, et vous ferez remettre par le capitaine copie certifiée conforme de tous papiers utiles. Lorsque la remise ou la destruction a été effectuée et que les formalités ont été remplies, le capitaine doit être autorisé à continuer sa route. L'oubli de ces formalités engage la responsabilité du capteur.—Fr. Ins. 1912.

#### **Enemy prizes.**

ART. 104. *Destruction des navires et des marchandises confiscables.*—Il n'est permis au belligérants de détruire les navires ennemis saisis qu'entant qu'ils sont sujets à confiscation et en présence d'une néces-

sité exceptionnelle, c'est-à-dire lorsque l'exigent la sécurité du navire capteur ou le succès des opérations de guerre dans lesquelles celui-ci est actuellement engagé. Avant la destruction, les personnes qui se trouvent à bord devront être mises en sûreté, et tous les papiers de bord et autres pièces, que les intéressés estimeront utiles pour le jugement sur la validité de la capture, devront être transbordés sur le navire capteur. Il en sera de même, dans la mesure du possible, pour les marchandises. Il sera dressé procès-verbal de la destruction du navire capturé et des motifs qui l'ont amenée.—Institut, 1913.

#### **Enemy prizes resisting capture.**

155. En cas de combat provoqué par une résistance armée, ceux qui montent la navire suivent la fortune des armes.—Fr. Ins. 1912.

#### **Enemy vessel.**

94. An enemy ship made prize may be destroyed by the capturing officer in case of military necessity, when the vessel can not be sent or brought in for adjudication.—U. S. Ins. 1917.

153. Les prises doivent être amarinées, conduites dans un port national ou allié, et non pas détruites. Par exception, vous êtes autorisé à détruire toute prise dont la conservation compromettrait votre propre sécurité ou le succès de vos opérations, notamment si vous ne pouvez conserver la prise sans affaiblir votre équipage.—Fr. Ins. 1912.

ART. 122. A captured enemy vessel may be destroyed if the taking of such vessel to a Japanese port is considered to involve danger to the ship of war or to the success of her operations.—Jap. Reg. 1914.

#### **Enemy vessel, compensation.**

ART. 114. Dans le cas de destruction d'un navire, le capteur sera tenu d'indemniser les intéressés, s'il n'est pas justifié par lui de la nécessité exceptionnelle de la destruction, ou si, la destruction ayant été justifiée, la capture est ensuite déclarée nulle.

La même règle est applicable dans l'hypothèse prévue à l'article 105.

Si des marchandises qui n'étaient pas susceptibles de confiscation ont été détruites, le propriétaire de ces marchandises a droit à une indemnité.

Au cas où le capteur a fait emploi du navire ou de la cargaison après la saisie, il devra, si celle-ci est reconnue illégitime, payer aux intéressés une équitable indemnité, d'après les documents dressés au moment de l'emploi.—Institut, 1913.

#### **Safety of persons.**

ART. 50. Before the destruction, the persons on board must be placed in safety, and all the ship's papers and other documents which

those interested consider relevant for the decision as to the validity of the capture must be taken on board the ship of war.—D. of L. 1909.

97. In no case after a vessel has been brought to may it be destroyed until after visit and search has been made and all persons on board have been placed in safety, and also, if practicable, their personal effects. All the documents, letters, and papers found on board the prize shall be taken on board the capturing vessel of war and be inventoried and sealed in accordance with the procedure of section 4615, Revised Statutes, for delivery to the prize court, with especial view to the protection of the interests of the owners of any innocent neutral cargo on board. All mails on board should be saved, so far as possible and practicable.—U. S. Ins. 1917.

158. Avant la destruction, les personnes qui se trouvent à bord devront être mises en sûreté, et tous les papiers de bord et autres pièces que les intéressé estimeront utiles pour jugement sur la validité de la capture devront être transbordés sur votre bâtiment.—Fr. Ins. 1912.

154. Avant la destruction, vous mettrez en sûreté les personnes, quelles qu'elles soient qui se trouvent à bord, ainsi que tous les papiers et documents utiles pour le jugement de la prise.—Fr. Ins. 1912.

ART. 123. Before destroying a vessel (enemy) under the preceding article, the commanding officer of the warship must remove all the persons on board to a safe place and must take on board his ship all the papers necessary for trial of the vessel.—Jap. Reg. 1914.

116. Before the destruction, all persons on board, if possible, with their goods and chattels, to be placed in safety, and all the ship's papers and other articles of evidence which in the opinion of the interested parties are of value for the judgment of the prize court are to be taken over by the captain.—Ger. O. 1909.

ART. 127. Before the destruction mentioned in the preceding article, the commanding officer of the warship shall remove the persons on board to a place of safety, and all the ship's papers and other documents which are considered relevant for the decision as to the validity of the capture must be taken on board the warship.—Jap. Reg. 1914.

#### **Obstruction of navigation.**

118. In sinking ships care is to be taken, if possible, to make no obstruction for neutral shipping.—Ger. O. 1909.

#### **Of cargo at sea.**

Art. 105. Le capteur a la faculté d'exiger la remise ou de procéder à la destruction des marchandises confiscables trouvées à bord d'un navire qui lui-même n'est pas sujet à confiscation, lorsque les circonstances sont telles que, d'après l'article précédent, elles justifieraient

la destruction d'un navire possible de confiscation. Il mentionne les objets livrés ou détruits sur le livre de bord du navire arrêté et se fait remettre par le capitaine copie certifiée conforme de tous papiers utiles.

Lorsque la remise ou la destruction a été effectuée et que les formalités ont été remplies, le capitaine doit être autorisé à continuer sa route.—Institut, 1913.

121. If the captain releases a captured neutral ship or desists from bringing it in, he may only seize and, as the case may be, destroy the confiscable part of the cargo when taking the ship in would probably imperil the man-of-war or endanger the success of the undertaking in which she is at the time engaged. The transferred or destroyed articles are to be noted in the log book of the visited ship; the captain will procure a copy attested by the master of all papers appropriated to the purpose. As soon as the transfer or destruction has been accomplished and formalities are completed, the master will be allowed to proceed on his voyage. If the foregoing right be exercised when, in the judgment of the prize court the special circumstances in question did not exist, the owners of the goods always have a claim for damages. The same holds when the seized goods are shown to be nonconfiscable.—Ger. O. 1909.

120. If the captain releases a captured enemy ship or desists from bringing it in, the parts of the cargo in such case, under 19 and 56, to be seized may be destroyed.—Ger. O. 1909.

ART. 130. The commanding officer of a ship of war has the right to require the surrender, or destruction of, goods liable to condemnation found on board a captured neutral vessel which he considers is not herself liable to condemnation, provided that the circumstances are such as provided in article 126. In the case of the preceding paragraph, the commanding officer of the ship of war shall enter the goods delivered or destroyed in the ship's papers of the vessel and must procure from the master duly certified copies of all relevant papers. When the surrender or destruction of the preceding paragraph has been completed, and the formalities have been fulfilled, the commanding officer of the ship of war shall allow the master to continue his voyage.—Jap. Reg. 1914.

#### Salvage of cargo.

117. If circumstances permit the salvage of parts of the cargo or equipment, their choice is to be determined, first, by the requirements of the man-of-war; second, with regard to the damages to be paid.—Ger. O. 1909.

#### Report on.

123. In every case of destruction of ships or goods, there are to be sent to the chief of the Admiralty Staff as soon and as safely as possible, for transmission to the prize court having jurisdiction:

(a) The papers and other articles of evidence; (b) a statement of the destruction, the reasons therefor, and all attendant circumstances.

The chief of the Admiralty Staff is besides to be informed as soon as possible of the destruction of a neutral ship, by a brief telegraphic report, direct, of the principle data.—Ger. O. 1909.

98. Every case of destruction of prize shall be reported to the Navy Department at the earliest practicable moment.—U. S. Ins. 1917.

ART. 129. In the case of the preceding article the commanding officer of the ship of war shall prepare an explanation according to Form No. 12, stating the circumstances which compelled him to destroy the vessel and the actions he has taken, and shall order the prize officer to send it to the nearest Japanese prize court, together with the persons on board and the ship's papers and other documents which have been removed from the vessel. The commanding officer of the ship of war shall make a detailed report similar to one mentioned in the preceding paragraph to the Minister of the Navy in regard to the destruction of the vessel.—Jap. Reg. 1914.

ART. XCII. In the cases of the above article the captain of the man-of-war shall direct the prize officer to prepare a certificate stating the circumstances of inability to send in the prize and the details of her disposal, and to send it to the nearest prize court, together with persons and cargo removed from the vessel, the ship's papers, and all documents required for judicial examination.—Jap. Reg. 1904.

ART. 124. The commanding officer of a warship who has destroyed an enemy vessel shall prepare a report according to Form No. 11, stating the circumstances which compelled him to destroy the vessel and particulars of actions he has taken, and shall order the prize officer to send it to the nearest Japanese prize court, together with the persons on board and the ship's papers and other documents removed from the vessel. He shall also make to the Minister of the Navy a detailed report similar to the above relating to the destruction of the vessel.—Jap. Reg. 1914.

36. In case such an event happens the captain of the captor shall file a statement to the prize court setting forth the circumstances under which he was compelled to destroy the vessel and at the same time he shall hold himself duly responsible for any consequence of the destruction.—China, Reg. 1917.

#### RANSOM

##### Forbidden.

152. Il vous est interdit de consentir un traité de rançon.—Fr. Ins. 1912.

93. If the search shows that only a part of the cargo is confiscable, the captain will decide whether he will capture the ship or only seize

the questionable part of the cargo, according to 121, or release the ship without further proceedings. A renunciation of the seizure in return for a payment is not permissible.—Ger. O. 1909.

### ASYLUM

**To prize, in neutral jurisdiction.**

ART. 21. A prize may only be brought into a neutral port on account of unseaworthiness, stress of weather, or want of fuel or provisions. It must leave as soon as the circumstances which justified its entry are at an end. If it does not, the neutral power must order it to leave at once; should it fail to obey, the neutral power must employ the means at its disposal to release it with its officers and crew and to intern the prize crew.—XIII, H. C. 1907.

20. A prize can be brought into a neutral port only on account of unseaworthiness, stress of weather, or want of fuel or provisions.—U. S. Ins. 1917.

21. It must leave as soon as the circumstances which justified its entry are at an end.—U. S. Ins. 1917.

42. An imperial vessel, while conducting away detained vessels, may enter the ports of a neutral power which has not forbidden in its declaration of neutrality (or other official document) the visitation of its ports by war vessels of the belligerent parties with prizes. Similarly an imperial cruiser may seek refuge in a port of a neutral power, together with captured vessels, in the case of a storm or other extreme necessity (for instance, a breakdown in the engines, insufficiency of supplies, or in case of pursuit by an enemy of superior strength), in which case the commander of the imperial vessel must submit to the rules established by the local government with regard to the period and other conditions of the sojourn in the neutral port.—Rus. Ins. 1900.

129. Une prise ne peut être amenée dans un port neutre que pour cause d'innavigabilité, de mauvais état de la mer, de manque de combustible ou de provisions. Elle doit repartir aussitôt que la cause qui en a justifié l'entrée a cessé. Le capteur se mettra en rapport avec le consul de France et se concertera avec lui sur la destination ultérieure de la prise.—Fr. Ins. 1912.

ART. 172. A captured vessel shall not be allowed to enter a neutral port, except for the reason that the vessel is incapacitated for navigation, the sea is very heavy, or her fuel or food has run short. When the cause which justifies the entrance to port ceases, the vessel shall instantly leave the neutral port.—Jap. Reg. 1914.

133. Si le port neutre dans lequel il se présente lui est interdit absolument, ou si sa présence n'y est tolérée que pour un temps insuffisant, le capteur ou le conducteur d'une prise défère aux invita-

tions qui lui sont adressées par le Gouvernement du pays où il se trouve. Il agit alors au mieux des intérêts dont il est chargé, et rend compte sans délai au Ministre de la Marine du refus qu'il a éprouvé.—Fr. Ins. 1912.

#### **Refusal of.**

ART. 174. In the case of article 172, if the neutral country has refused the entrance of the captured vessel into one of her ports or has unreasonably restricted the period of her stay, the prize officer shall inform the Japanese diplomatic or consular officer accredited to that country and request such officer to discuss the matter with the authorities of that country. He shall also report it to the Minister of the Navy—Jap. Reg. 1914.

### **ADJUDICATION**

#### **Delivery to court.**

25. Concerning the conducting of a detained vessel or its cargo into port, the proper authority immediately notifies the nearest prize court, and, after the measures indicated in article 23 have been taken, he turns over to the disposal of the court the master, supercargo, and other persons from among the crew of the detained vessel who have been detained for the purpose of explaining matters, as well as all documents relating to the case.—Rus. Reg. 1895.

ART. 110. La légalité et la régularité de la capture des navires ennemis et de la saisie des marchandises doivent être établies devant la juridiction des prises.—Institut, 1913.

27. The confiscation of detained war vessels and cargoes takes place by order of the proper naval authority. The confiscation of other vessels and cargoes subject to detention does not take place otherwise than by virtue of a decision of a prize court.—Rus. Reg. 1895.

ART. 112. Un Etat belligérant n'acquerra la propriété du navire ou des marchandises qu'il a saisis durant la guerre qu'au moment où par une décision devenue définitive, la juridiction des prises aura prononcé à son profit la confiscation de ce navire ou sur ces marchandises.—Institut, 1913.

38. No ship or cargo shall be condemned without the adjudication of the prize court.—China, Reg. 1917.

33. Objects confiscated as prizes constitute Government property. An appraisal is made of these objects, and then those of them which the navy department does not consider necessary to keep are sold at public auction. In both cases prize money is awarded for the detention of the property in question.

NOTE.—The appraisal and sale of prizes takes place according to rules issued by the director of the naval ministry with the consent of the Minister of Finance.—Rus. Reg. 1895.

**Confiscation, definition.**

*Note to preamble.*—La confiscation est l'acte par lequel la juridiction des prises valide la capture d'un navire ou la saisie de marchandises.—Institut, 1913.

*Preliminary note.*—La confiscation est prononcée par le Conseil des prises en conséquence de la validation de la capture. C'est l'attribution définitive, au profit de l'État, de la propriété du navire ou de la cargaison capturée.—Fr. Ins. 1912.

**Title to, war vessels.**

ART. 115. A la différence des navires publics non militaires et des navires privés ennemis, les bâtiments de la marine militaire d'un beligérant pris par son l'adversaire, deviennent, ainsi que leur matériel, la propriété de celui-ci dès qu'ils sont tombés en sa possession sans que doive intervenir une décision de la juridiction des prises.—Institut, 1913.

99. By the fact of capture a public vessel in the military service of the enemy passes into the possession of the captor's Government, in which title immediately vests. The vessel, therefore, becomes a public vessel belonging to the captor's Government and subject to its disposal. It is unnecessary to send a captured public vessel into port for adjudication. The vessel may be immediately converted to the use of the captor and sent to any port at his convenience, as a public vessel of the United States. The captured personnel shall be made prisoners of war, except the religious, medical, or hospital staff of the ship.—U. S. Reg. 1917.

## RECAPTURE

**Recapture of prize.**

ART. 111. Toute reprise doit être également jugée par la juridiction des prises.—Institut, 1913.

98. If a ship that has been captured by the enemy has been retaken, before confiscation or employment in hostile undertakings by him, she is to be released if no ground exists from the German standpoint for her capture. Report of the release is to be made directly to the chief of the admiralty staff.—Ger. O. 1909.

37. When the captain of a warship recaptures a vessel of the Republic or of neutral nationality which had been captured by the enemy but which has not been employed in the service of the enemy brought to an enemy port he shall set the vessels free.—China, Reg. 1917.

34. Regarding Russian and foreign vessels and cargoes recaptured from the enemy, as well as the conducting into port and surrender of these vessels and cargoes, the general rules concerning detention, conducting into port, and surrender of hostile and suspicious vessels are observed, together with the following special rules:

(1) Property recaptured from the enemy, although it may have been already confiscated by the enemy as a prize, is returned by direction of the prize court to the original owner, who is obliged to pay the prize money for the recapture and the expenses incurred in the recapture, and in case property is found on board the recaptured vessels which belongs to the enemy, this property is considered as a prize and is subjected to confiscation according to the general rule.

(2) Russian Government vessels and cargoes recaptured from the enemy are returned to the Government without the intermediation of the court by order of the proper naval authority.

(3) Property recaptured from the enemy and belonging to a foreign owner is returned to him without payment by him of prize money or the expenses of the recapture, provided it is proven that this property could not have been considered as lawful prize by the enemy, but would have been subject to release; in this case no reward is paid for recapture.—Rus. Reg. 1895.

ART. 108. *Rescousse*.—Lorsqu'un navire pris, puis repris, vient à être enlevé au recapteur, le dernier capteur a seul des droits sur lui.—Institut, 1913.

ART. LXXIII. When the captain of a man-of-war recaptures a Japanese or a neutral vessel captured by the enemy, he may release her if she has not yet been taken into an enemy port or has not been used for military purposes.—Jap. Reg. 1904; art. 159, Reg. 1914.

## RESPONSIBILITY

### Capture without probable cause.

ART. 64. If the capture of a vessel or of goods is not upheld by the prize court, or if without being brought to judgment the captured vessel is released, those interested have the right to compensation, unless there were sufficient reasons for capturing the vessel or goods.—D. of L. 1909.

ART. 113. Si la saisie du navire ou des marchandises n'est pas validée par la juridiction des prises, ou si, sans qu'il y ait eu de mise en jugement, la saisie n'est pas maintenue, les intéressés ont droit à des dommages et intérêts, à moins qu'il y ait eu des motifs suffisants de saisir le navire ou les marchandises.—Institut, 1913.

78. An officer making a capture is held by the courts of the United States to be personally liable in damages unless the capture made by him is for probable cause.—U. S. Ins. 1917.

### Capture, definition of probable cause.

79. Probable cause is defined by the Supreme Court of the United States as follows:

Probable cause exists where there are circumstances sufficient to warrant suspicion, though it may turn out that the facts are not sufficient to warrant condemnation. And whether they are or not can not be determined unless the customary proceedings of prize are instituted and enforced. (Chief Justice Fuller in *Olinda Rodrigue* (1899), 177 U. S. 510.) The terms "probable cause," according to its usual acceptation, means less than evidence which would justify condemnation; and in all cases of seizure has a fixed and well-known meaning. It imports a seizure made under circumstances which warrant suspicion. (Chief Justice Marshall in *Locke v. U. S.* (1813), 7 Cranch 339.)

—U. S. Ins. 1917.

8. If the capture of ships and goods is not upheld by the prize courts, or if they are released before prize court proceedings are instituted, the parties interested have claim for damages, unless there were sufficient grounds for the seizure. The latter is always the case when any person found on board the ship has destroyed or concealed ship's papers, or when two sets, false, or falsified ship's papers are found on board, so far as the said irregularities have connection with circumstances of weight in deciding between the seizure or release of the ship.—Ger. O. 1909.

29. If the property subject to return to the original owner is found to be sold, or released on deposit made, the owner is given the full amount obtained by the sale or received as a deposit. If, however, the property subject to return has been destroyed by order of the naval authorities or has perished through the fault or negligence of the officials to whom its custody was intrusted, the owner is indemnified in the amount of the value of the destroyed or perished property, estimated on the basis of information furnished.—Rus. Reg. 1895.

30. Independently of the delivery of the property subject to return or of the indemnification to the amount of its value a special indemnity may be awarded the original owner of the property for damages caused by the detention of the property when it is acknowledged that the property was detained without sufficient reason or in violation of the conditions prescribed. In case the property is returned in a damaged state the owner may be awarded an indemnification for his losses, provided it is proven that the damage was caused through the fault or negligence of the officials who were responsible for its custody.—Rus. Reg. 1895.

32. Sums intended for disbursement, in accordance with articles 29–31, as indemnity for destroyed property or losses occasioned by its detention or injury are paid from the funds of the national treasury, and the expenditures thus made by the treasury are recovered in appropriate cases from the guilty parties in the manner established by law.—Rus. Reg. 1895.

## ENEMY PROPERTY

### GROUNDS OF CAPTURE

#### Vessels, allied.

ART. 4. Vessels of a country which is engaged in war in conjunction with Japan, shall, in regard to capture at sea, be in the same category as Japanese vessels.—Jap. Reg. 1914.

#### National character of vessels.

ART. VII. Japanese vessels are those which are mentioned below and which do not come under the preceding article:

1. Those which have the certificate of nationality of the Empire or those which voyage under the license of the Imperial Government.

2. Vessels owned by persons who have residence in the Empire.

3. A vessel, the ownership of which has been transferred before the war but in expectation of its outbreak or during the war by a person who has residence in the Empire to a person who has residence in a neutral State, unless there is proof of a bona fide and complete transfer of the ownership of the vessel. In case the ownership of a vessel is transferred during its voyage, and its delivery is not effected, such transfer shall not be considered as bona fide and complete.

—Jap. Reg. 1904.

#### Communicating with the enemy.

ART. 30. In the following circumstances Japanese vessels shall be considered as communicating with an enemy—

1. When a vessel has left enemy territory or a place where there are army or naval forces of an enemy.

2. When a vessel has touched enemy territory or a place where there are army or naval forces of an enemy or when a vessel is bound for such a place.—Jap. Reg. 1914.

#### Exceptions.

ART. 31. To a Japanese vessel which comes under one of the following categories, the provisions of the preceding article are not applicable:

1. Vessels voyaging with special permission of the Japanese Government or of the commanding officer of a Japanese squadron or man-of-war.

2. Vessels which have been permitted to leave enemy territory at the time of opening of hostilities, or have escaped therefrom.

3. Vessels in distress which were obliged to touch enemy territory, there being no other port to enter.—Jap. Reg. 1914.

#### Enemy character, trading with the enemy.

73. Any vessel of the United States found engaged in trade of any kind with the enemy without a license so to do from the President of the United States or his duly authorized agent shall be

captured and sent in for adjudication. Any vessel of the United States that is found trading under a license issued by the enemy shall be captured and sent in for adjudication.—U. S. Ins. 1917.

**ART. XLI.** Japanese vessels which carry on commerce with the enemy State or its subjects or which are making voyage with such intention shall be forfeited. Of the cargo on board the vessels mentioned in the above clause, all the goods owned by the owners of the vessels and all the enemy goods shall be forfeited.—Jap. Reg. 1904.

41. Vessels of the Republic engaged in commercial intercourse with the enemy without the special permission of the Government are liable to condemnation. Goods on board such vessels are not liable to condemnation unless they are of enemy ownership or belonging to the owner of the vessel.—China, Reg. 1917.

24. L'état de guerre entraînant l'interdiction de toutes relations de commerce entre les nations belligérantes, vous devez arrêter les navires de commerce français qui, sans justifier d'une licence, tenteraient d'enfreindre cette interdiction ou qui, plus coupables encore, chercheraient à violer un blocus ou s'engageraient dans un transport de troupes, de dépêches officielles ou de contrebande de guerre, pour le compte ou à destination de l'ennemi.—Fr. Ins. 1912; art. 23, Ins. 1916.

24. Enemy merchandise under a French or allied flag will be seized.—Fr. Ins. 1916.

25. Les capitaines et toutes personnes soupçonnées de complicité devraient être arrêtés et remis à l'autorité judiciaire française la plus proche, à l'effet d'être poursuivis, s'il y a lieu, par application des articles 77 et suivants du Code pénal.—Fr. Ins. 1912.

**ART. XXXVI.** Any vessel of the Empire which carries on commerce with the enemy State or its subjects or makes voyage with such intention shall be captured, unless such vessel has no knowledge of the outbreak of war or has permission from the Imperial Government.—Jap. Reg. 1904.

**ART. 25. II.** Ships of the Republic of China engaged in commercial intercourse with the enemy without the permission of the Republican Government.—China, Reg. 1917.

#### LIABILITY

##### Of vessel.

ART. 32. Japanese vessels which communicate with an enemy shall be captured. However, to vessels which do not know the fact of the opening of hostilities, this rule does not apply.—Jap. Reg. 1914.

##### Of goods.

ART. 33. A Japanese vessel which communicates with an enemy shall be forfeited; the same is the case with those cargoes which

belong to the owner of the vessel, to the charterer of the whole vessel, or to the master, as well as enemy goods.—Jap. Reg. 1914.

#### Enemy property, vessels.

ART. 31. A. *Navires et cargaisons—Bâtiments de guerre.*—La force armée d'un Etat peut attaquer, pour s'en emparer ou les détruire, avec leur armement et leurs approvisionnements, les bâtiments de guerre de l'ennemi, même s'ils se trouvent, au début de la lutte, dans un port de l'Etat, ou sont rencontrés en mer dans l'ignorance des hostilités, ou si la force majeure les a contraints d'entrer dans un port ou les a jetés sur les côtes du dit Etat.—Institut, 1913.

118. *Capture des bâtiments de guerre.*—Dans le cas de capture d'un bâtiment de guerre, vous vous bornerez à le constater sur votre journal et vous pourvoirez à la conduite de la manière la plus conforme à la sécurité des équipages auxquels vous la confierez. (Décret du 15 mai 1910 sur le service à bord des bâtiments de la Flotte, art. 368, 369, 407.)—Fr. Ins. 1912.

ART. 2. Enemy public vessels come without further formality under the laws of war.—Ger. O. 1909.

17. An enemy ship captured is subject to confiscation.—Ger. O. 1909.

#### Enemy vessel, liability of cargo.

18. The following portions of her cargo are subject to confiscation:

(a) The enemy's property.

(b) The merchandise belonging to the captain and the owner, when the ship was captured against resistance.

(c) Contraband of war and the merchandise belonging to its owner.

(d) In case of breach of blockade the confiscable merchandise according to 80.—Ger. O. 1909.

19. Those portions of the cargo are subject to seizure also when the captain refrains from bringing in an enemy ship, so far as they are not without question proved to be neutral goods.—Ger. O. 1909.

ART. 33. *Principe de la capture.*—Les navires publics et les navires privés, de nationalité ennemie, sont sujet à capture, et les marchandises ennemis, publiques ou privées qui existent à leur bord, sont.—Institut, 1913.

ART. 34. La capture et la saisie sont admises alors même que les navires ou les marchandises sont tombés au pouvoir du belligérant à la suite d'une force majeure, par naufrage ou relâche forcée.—Institut, 1913.

62. Enemy vessels are liable to capture outside of neutral jurisdiction.—U. S. Ins. 1917.

2. Vous êtes également requis de courir sus à tous les navires de commerce ennemis que vous rencontrerez et de les capturer.—Fr. Ins. 1912.

10. Subject to confiscation as prizes are hostile war and merchant vessels and all objects on board of them, except (1) those intended for the use of the crew or passengers and (2) those belonging to the government of a neutral power or its subjects and not constituting contraband of war. Independently of this the Imperial Government reserves the right to admit, on a basis of reciprocity, the exemption from confiscation of all or certain kinds of hostile vessels and cargoes, except the cases in which these vessels or cargoes are subject to confiscation according to the rules indicated in articles 11 and 12 for neutral vessels.

NOTE.—All goods found on an enemy's vessel are considered as enemy's property unless the contrary is proven.—Rus. Reg. 1895.

37. Vessels subject to detention are the following: (1) All hostile war and merchant vessels. (See arts. 9 and 10 of the Regulations on Maritime Prizes.)

NOTE.—If, by virtue of special international agreements concluded by the Imperial Government, some of the foreign vessels are considered as not subject to seizure, they are nevertheless subjected to detention (see second half of art. 10 of the Regulations on Maritime Prizes), provided they commit the acts indicated in the second part of the present paragraph (*a, b, c, d, e*).—Rus. Ins. 1900.

38. Cargoes subject to detention are the following: (1) Enemies' cargoes being conveyed on hostile vessels.—Rus. Ins. 1900.

ART. XL. Enemy vessels shall be forfeited. Of the cargo on board, mentioned in the above clause, enemy goods shall be forfeited. In case of an armed vessel, however, the whole cargo shall be forfeited.—Jap. Reg. 1904.

ART. 24. Enemy vessels shall be captured.—Jap. Reg. 1914.

39. Enemy ships are liable to condemnation. Enemy goods on board an enemy ship are liable to condemnation.—China, Reg. 1917.

ART. 29. Enemy vessels and enemy goods on board are liable to condemnation.—Jap. Reg. 1914.

### IMMUNITY

**Enemy private property, general immunity.**

*Préambule.*—L'Institut de droit international, dans sa session de Christiania, a déclaré maintenir fermement ses Résolutions antérieures, en ce qui concerne l'abolition de la capture et de la confiscation de la propriété privée ennemie dans la guerre maritime. Mais, constatant, en même temps, que l'acceptation de ce principe n'est pas encore acquise et considérant qu'aussi longtemps qu'elle ne le sera

pas, le règlement du droit de capture est indispensable, il a chargé une Commission d'élaborer des dispositions prévoyant l'une et l'autre éventualité. C'est en exécution de cette dernière décision que l'Institut a, dans sa session d'Oxford, le 9 août 1913, adopté, en premier lieu, le Manuel qui suit, fondé sur le droit de capture.—Institut, 1913.

#### **Enemy property, under neutral flag.**

(2) The neutral flag covers enemy's goods, with the exception of contraband of war.—D. of P. 1856.

67. The neutral flag covers enemy goods with the exception of contraband of war. (Declaration of Paris, 1856, Art. 2.)—U. S. Ins. 1917.

28. Le pavillon couvre la marchandise ennemie, à l'exception de la contrebande de guerre. Vous n'avez donc point à examiner la propriété du chargement des navires neutres, mais seulement la nature de ce chargement.—Fr. Ins. 1912.

ART. 6. Goods not considered contraband of war but being actually the property of the enemy or their allies may be seized whilst on board neutral ships, whatever port they may be bound to, and shall be deposited and dealt with in accordance with the terms of the decree No. 2350 of April 20, 1916, and other enactments in force.—Port. Dec. 1916.

ART. III. Notwithstanding that Spain is not bound by the declaration signed in Paris on April 16, 1856, as she expressly stated her wish not to adhere to it, my Government, guided by the principles of international law, intends to observe and hereby orders that the following regulations for maritime law be observed: (a) A neutral flag covers the enemy's goods, except contraband of war.—Spain, Dec. 1898.

40. Enemy goods under neutral flag are not liable to condemnation.—China, Reg. 1917.

#### **EXEMPTIONS**

##### **Enemy vessels.**

63. The following when innocently employed are exempt from capture:

- (a) Cartel ships designated for and engaged in exchange of prisoners.
- (b) Vessels charged with religious, scientific, or philanthropic missions.
- (c) Properly designated hospital ships.
- (d) Vessels exempt by treaty or special proclamation.
- (e) Small coast (not deep-sea) fishing vessels and small boats employed in local trade.

The fishing vessels and small boats referred to may be subjected to special regulations imposed by the naval commander operating in the vicinity. They are liable to capture if such regulations be

disobeyed or if they engage in any undertaking prejudicial to United States military operations by land or sea.—U. S. Ins. 1917.

16. Il vous est interdit de profiter du caractère inoffensif des navires français ayant les caractères susvisés pour les employer dans un but militaire en leur conservant leur apparence pacifique.—Fr. Ins. 1912.

1. In execution of the royal decree of May 16, 1915, suspending the application of article 211 of the Mercantile Marine Code during the present conflict, the capture of enemy merchant ships is authorized in every case, with the following exceptions:

(a) Sailing boats adapted exclusively to shoal-water fishing, or to short, local services within 3 miles of the enemy coast, provided they do not exceed 5 tons displacement, nor violate special provisions issued by the military authorities concerning fishing and navigation.

(b) Ships exclusively employed for religious, scientific or philanthropic purposes, hospital ships fitted out by private persons or charitable societies expressly recognized as such by the Royal Government in accordance with special instructions issued to naval commanding officers.

Cargoes which are enemy property in boats specified under (a) are exempt from sequestration, provided they do not include contraband of war; cargoes which are enemy property are equally exempt on board ships specified under (b) when connected with the mission on which the ship is engaged.

Boats and ships included under (a) and (b) are, however, in every case subject to capture as well as their cargoes, being enemy property, when such ships and boats take any direct or indirect part in hostilities.—Italy, P. R. 1915.

ART. XXXV. All enemy vessels shall be captured. Vessels belonging to one of the following categories, however, shall be exempted from capture if it is clear that they are employed solely for the industry or undertaking for which they are intended :

1. Vessels employed for coast fishery.
2. Vessels making voyage for scientific, philanthropic, or religious purposes.
3. Lighthouse vessels and tenders.
4. Vessels employed for exchange of prisoners.

—Jap. Reg. 1904.

25. Vessels of the following classes shall be liable to capture :

1. Enemy ships. But the following ships which do not participate in hostile campaigns shall be exempt from capture in spite of their enemy character :

(a) Boats engaged in coast fisheries and local trade as well as their appliances and cargo.

(b) Ships engaged exclusively on a voyage of scientific discovery, philanthropy, and religious mission.

(c) Hospital ships provided in The Hague naval convention.

(d) Cartel ships.

—China, Reg. 1917.

**ART. VI.** The boats which, at their own risk and peril, during and after an engagement, pick up the shipwrecked or wounded, or which, having picked them up, convey them on board a neutral or hospital ship, shall enjoy, until the accomplishment of their mission, the character of neutrality, as far as the circumstances of the engagement and the position of the ships engaged will permit. The appreciation of these circumstances is intrusted to the humanity of all the combatants. The wrecked and wounded thus picked up and saved must not serve again during the continuance of the war.—Spain, Ins. 1898.

**ART. 42.** Les bâtiments hospitaliers équipés en totalité ou en partie aux frais de particuliers ou des sociétés de secours officiellement reconnues, sont également respectés et exempts de saisie, si la puissance belligérante dont ils dépendent leur a donnée une commission officielle et en a notifié les noms à la puissance adverse à l'ouverture ou au cours des hostilités, en tout cas avant toute mise en usage. Ces navires doivent être porteurs d'un document de l'autorité compétente déclarent qu'ils ont été soumis à son contrôle pendant leur armement et à leur départ final. Les bâtiments dont il s'agit seront distingués par une peinture extérieure blanche avec une bande horizontale rouge d'un mètre et demi de largeur environ. Ils sont soumis aux règles établies pour les bâtiments-hôpitaux militaires par l'article 41.—Institut, 1913.

**ART. X.** Any merchantman, to whatever nation she may belong, charged exclusively with removal of sick and wounded, is protected by neutrality; but the mere fact, noted on the ship's books, of the vessel having been visited by an enemy's cruiser, renders the sick and wounded incapable of serving during the continuance of the war. The cruiser shall even have the right of putting on board an officer in order to accompany the convoy, and thus verify the good faith of the operation. If the merchant ship also carries a cargo, her neutrality will still protect it, provided that such cargo is not of a nature to be confiscated by the belligerents. The belligerents retain the right to interdict neutralized vessels from all communication, and from any course which they may deem prejudicial to the secrecy of their operations. In urgent cases special conventions may be entered into between commanders in chief, in order to neutralize temporarily and in a special manner the vessels intended for the removal of the sick and wounded.—Spain, Ins. 1898.

#### Licensed enemy vessels.

**ART. 48. *Navires munis d'un sauf-conduit ou d'une licence.***—Sont exempts de capture les navires ennemis pourvus d'un sauf-conduit ou d'une licence.—Institut, 1913.

4. Exceptionnellement, vous laisserez librement passer les navires de commerce ennemis munis d'un sauf-conduit à souche, conforme au

modèle annexé aux présentes instructions, constatant qu'il leur a été permis de sortir librement d'un port français après l'ouverture des hostilités pour gagner directement le port qui leur aura été désigné dans ce sauf-conduit. Vous vous assurerez que l'acte qui vous est présenté est sincère et que les conditions en ont été rigoureusement observées, particulièrement en ce qui concerne la route suivie par le navire et la composition de son équipage ou de sa cargaison. En cas de soupçon sur l'authenticité de cet acte ou d'inexécution des conditions stipulées, vous capturerez le navire.—Fr. Ins. 1912.

#### Hospital ships, public.

ART. 1. Military hospital ships—that is to say, ships constructed or assigned by States specially and solely with a view to assisting the wounded, sick, and shipwrecked—the names of which have been communicated to the belligerent powers at the commencement or during the course of hostilities, and in any case before they are employed, shall be respected, and can not be captured while hostilities last. These ships, moreover, are not on the same footing as warships as regards their stay in a neutral port.—X, H. C. 1907.

ART. 41. *Exceptions aux principes des articles 31 et 33—Bâtiments hospitaliers.*—Sont respectés et ne peuvent être capturés pendant la durée des hostilités les bâtiments-hôpitaux militaires, c'est-à-dire les bâtiments construits et aménagés par les Etats spécialement et uniquement en vue de porter secours aux blessés, malades et naufragés, et dont les noms auront été communiqués, à l'ouverture ou au cours des hostilités, en tout cas avant toute mise en usage, aux puissances belligérantes.

Les bâtiments-hôpitaux militaires seront distingués par une peinture extérieure blanche avec une bande horizontale verte d'un mètre et demi de largeur environ.

Les embarcations des bâtiments qui viennent d'être mentionnés, comme les petits bâtiments qui pourront être affectés au service hospitalier, se distingueront par une peinture analogue.

Tous les bâtiments hospitaliers se feront reconnaître en hissant, avec leur pavillon national, le pavillon blanc à croix rouge prévu par la Convention de Genève.

Les bâtiments et embarcations ci-dessus mentionnés qui veulent s'assurer, la nuit, le respect auquel ils ont droit, ont, avec l'assentiment du belligérant qu'ils accompagnent, à prendre les mesures nécessaires pour que la peinture qui les caractérise soit suffisamment apparente.

Les signes distinctifs prévus au présent article ne pourront être employés que pour protéger ou désigner les bâtiments mentionnés.

Ces bâtiments ne peuvent être utilisés pour aucun but militaire.

Ils ne devront gêner en aucune manière les mouvements des combattants.

Pendant et après le combat, ils agiront à leurs risques et périls.

Les belligérants auront sur eux droit de contrôle et de visite; ils pourront refuser leur concours, leur enjoindre de s'éloigner, leur imposer une direction déterminée et mettre à bord un commissaire, même les détenir si la gravité des circonstances l'exigeait.

Autant que possible, les belligérants inscriront sur le journal du bord des bâtiments hospitaliers les odres qu'ils leur donneront.

Les bâtiments hospitaliers qui, dans les termes du présent article, sont détenus par l'ennemi, auront à rentrer le pavillon national du belligérant dont ils relèvent.—Institut, 1913.

ART. IX. The military hospital ships remain under martial law in all that concerns their stores; they become the property of the captor, but the latter must not divert them from their special appropriation during the continuance of the war.—Spain, Ins. 1898.

#### Hospital ships, private.

ART. 2. Hospital ships, equipped wholly or in part at the expense of private individuals or officially recognized relief societies, shall be likewise respected and exempt from capture if the belligerent power to whom they belong has given them an official commission and has notified their names to the hostile power at the commencement of or during hostilities, and in any case before they are employed. These ships must be provided with a certificate from the competent authorities declaring that the vessels have been under their control while fitting out and on final departure.—X, H. C. 1907.

ART. 3. Hospital ships, equipped wholly or in part at the expense of private individuals or officially recognized societies of neutral countries, shall be respected and exempt from capture, on condition that they are placed under the control of one of the belligerents, with the previous consent of their own Government and with the authorization of the belligerent himself, and that the latter has notified their name to his adversary at the commencement of or during hostilities, and in any case before they are employed.—X, H. C. 1907.

ART. 9. Belligerents may appeal to the charity of the commanders of neutral merchant ships, yachts, or boats to take on board and tend the sick and wounded. Vessels responding to this appeal, and also vessels which have of their own accord rescued sick, wounded, or shipwrecked men, shall enjoy special protection and certain immunities. In no case can they be captured for having such persons on board, but, apart from special undertakings that have been made to them, they remain liable to capture for any violations of neutrality they may have committed.—X, H. C. 1907.

**Hospital ships, duties and privileges.**

ART. 4. The ships mentioned in Articles I, II, and III shall afford relief and assistance to the wounded, sick, and shipwrecked of the belligerents without distinction of nationality. The Governments undertake not to use these ships for any military purpose. These vessels must in no wise hamper the movements of the combatants. During and after an engagement they will act at their own risk and peril. The belligerents shall have the right to control and search them; they can refuse to help them, order them off, make them take a certain course, and put a commissioner on board; they can even detain them, if important circumstances require it. As far as possible, the belligerents shall enter in the log of the hospital ships the orders which they give them.—X, H. C. 1907.

**Hospital ships, distinguishing marks.**

ART. 5. Military hospital ships shall be distinguished by being painted white outside with a horizontal band of green about a meter and a half in breadth. The ships mentioned in Articles II and III shall be distinguished by being painted white outside with a horizontal band of red about a meter and a half in breadth. The boats of the ships above mentioned, as also small craft which may be used for hospital work, shall be distinguished by similar painting. All hospital ships shall make themselves known by hoisting, with their national flag, the white flag with a red cross provided by the Geneva convention, and further, if they belong to a neutral State, by flying at the mainmast the national flag of the belligerent under whose control they are placed. Hospital ships which, in the terms of Article IV, are detained by the enemy, must haul down the national flag of the belligerent to whom they belong. The ships and boats above mentioned which wish to insure by night the freedom from interference to which they are entitled, must, subject to the assent of the belligerent they are accompanying, take the necessary measures to render their special painting sufficiently plain.—X, H. C. 1907.

ART. 6. The distinguishing signs referred to in Article V can only be used, whether in time of peace or war, for protecting or indicating the ships therein mentioned.—X, H. C. 1907.

ART. XII. The distinctive flag to be used with the national flag, in order to indicate any vessel or boat which may claim the benefits of neutrality, is a white flag with a red cross. The belligerents may exercise in this respect any mode of verification which they may deem necessary. Military hospital ships shall be distinguished by being painted white outside, with green strake.—Spain, Ins. 1898.

ART. XIII. The hospital ships which are equipped at the expense of the aid societies, recognized by the signatory powers to the Geneva convention, and which are furnished with a commission emanating

from the sovereign, who shall have given express authority for their being fitted out, and with a certificate from the proper naval authority that they have been placed under his control until their final departure, and that they were then appropriated solely to the purpose of their mission, shall be considered neutral, as well as the whole of their staff. They shall be recognized and protected by the belligerents. They shall make themselves known by hoisting, together with their national flag, the white flag with a red cross. The distinctive mark of their staff, while performing their duties, shall be an armlet of the same colors. The outer painting of these hospital ships shall be white with red stroke. These ships shall bear aid and assistance to the wounded and wrecked belligerents, without distinction of nationality. They must take care not to interfere in any way with the movements of the combatants. During and after the battle they must do their duty at their own risk and peril. The belligerents shall have the right of controlling and visiting them; they will be at liberty to refuse their assistance, to order them to depart, and to detain them if the exigencies of the case require such a step. The wounded and wrecked picked up by these ships can not be reclaimed by either of the combatants, and they will be required not to serve during the continuance of the war.—Spain, Ins. 1898.

#### Hospital wards of warships.

ART. 7. In the case of a fight on board a warship, the sick wards shall be respected and spared as far as possible. The said sick wards and the matériel belonging to them remain subject to the laws of war; they can not, however, be used for any purpose other than that for which they were originally intended, so long as they are required for the sick and wounded. The commander, however, into whose power they have fallen may apply them to other purposes, if the military situation requires it, after seeing that the sick and wounded on board are properly provided for.—X, H. C. 1907.

ART. 43. Dans le cas d'un combat à bord d'un vaisseau de guerre, les infirmeries et leur matériel seront respectés et ménagés autant que faire se pourra. Tout en demeurant soumis aux lois de la guerre, ils ne pourront être détournés de leur emploi, tant qu'ils seront nécessaires aux blessés et malades. Le commandant qui les a en son pouvoir cependant la faculté d'en disposer, en cas de nécessité militaire importante, en assurant le sort des blessés et malades qui s'y trouvent.—Institut, 1913.

#### Hospital ships, limit of exemption.

ART. 8. Hospital ships and sick wards of vessels are no longer entitled to protection if they are employed for the purpose of injuring the enemy. The fact of the staff of the said ships and sick wards being armed for maintaining order and for defending the sick and

wounded and the presence of wireless telegraphy apparatus on board is not a sufficient reason for withdrawing protection.—X, H. C. 1907.

ART. 44. La protection due aux bâtiments-hospitaliers et aux infirmeries des vaisseaux cesse si l'on en use pour commettre des actes nuisibles à l'ennemi. N'est pas considéré comme étant de nature à justifier le retrait de la protection, le fait que le personnel de ces bâtiments et de ces infirmeries est armé pour le maintien de l'ordre et pour la défense des blessés ou malades, ainsi que le fait de la présence à bord d'une installation radio-télégraphique.—Institut, 1913.

ART. XIV. In naval wars any strong presumption that either belligerant takes advantage of the benefits of neutrality, with any other view than the interest of the sick and wounded, gives to the other belligerent, until proof to the contrary, the right of suspending the convention, as regards such belligerent.—Spain, Ins. 1898.

#### Cartel ships.

ART. 45. *Navires de cartel.*—Ne peuvent être saisis, pendant qu'ils remplissent leur mission, les navires dits de cartel, qui font office de parlementaires, même s'ils appartiennent à la marine militaire. Est considéré comme navire de cartel, le navire autorisé par l'un des belligérants à entrer en pourparlers avec l'autre et se présentant avec un pavillon blanc. Le chef auquel un navire de cartel est expédié n'est pas obligé de le recevoir en toutes circonstances. Il peut prendre toutes les mesures nécessaires afin d'empêcher le navire de cartel de profiter de sa mission pour se renseigner. Il a le droit, en cas d'abus, de retenir temporairement le navire de cartel. Le navire de cartel perd ses droits d'inviolabilité, s'il est prouvé, d'une manière positive et irrécusable, que le commandant a profité de la position privilégiée de ce navire pour provoquer ou commettre un acte de trahison.—Institut, 1913.

ART. 6. Exempt from seizure are: (d) Vessels whose voyage is made for carrying a flag of truce or for the exchange of prisoners of war.—Ger. O. 1909.

#### Religious, scientific, and philanthropic vessels.

ART. 4. Vessels charged with religious, scientific, or philanthropic missions are likewise exempt from capture.—XI, H. C. 1907.

ART. 46. *Navires chargés de missions.*—Sont exempts de saisie les navires chargés de missions religieuses, scientifiques ou philanthropiques.—Institut, 1913.

15. Les bâtiments chargés de mission religieuse, scientifique ou philanthropique sont également exempts de capture, sous la même réserve que ces bâtiments ne participent en aucune façon aux hostilités.—Fr. Ins. 1912.

ART. 6. Exempt from seizure are: (c) Vessels engaged in religious, scientific, and philanthropic work.—Ger. O. 1909.

ART. 28. An enemy vessel which is engaged in scientific, religious, or philanthropic work shall be exempt from capture if it is clear that she is exclusively engaged in such work.—Jap. Reg. 1914.

**Fishing vessels and local trade.**

ART. 3. Vessels used exclusively for fishing along the coast or small boats employed in local trade are exempt from capture, as well as their appliances, rigging, tackle, and cargo. They cease to be exempt as soon as they take any part whatever in hostilities. The contracting powers agree not to take advantage of the harmless character of the said vessels in order to use them for military purposes while preserving their peaceful appearance.—XI, H. C. 1907.

12. Les navires ennemis exclusivement affectés à la pêche côtière ou à des services de petite navigation locale sont exempts de capture, ainsi que leurs engins, agrès, apparaux et chargement. Cette exemption cesse de leur être applicable dès qu'ils participent d'une façon quelconque aux hostilités.—Fr. Ins. 1912.

ART. 47. *Bateaux affectés à la pêche cotière et à la petite navigation locale.*—Les bateaux exclusivement affectés à la pêche cotière, ou à des services de petite navigation locale, y compris ceux exclusivement affectés au pilotage ou au service des phares, comme aussi les navires destinés à naviguer principalement sur les fleuves, canaux et lacs, sont exempts de saisie, ainsi que leurs engins, agrès, apparaux et chargements. Il est interdit de profiter du caractère inoffensif des dits bateaux pour les employer dans un but militaire en leur conservant leur apparence pacifique.—Institut, 1913.

13. Toutefois vous ne tolérerez la pêche et la petite navigation locale sur les côtes de l'ennemi que pendant le jour et qu'autant que cette faveur, dictée par un intérêt d'humanité, n'entraînerait aucun abus préjudiciable aux opérations militaires et maritimes, notamment en cas de blocus.—Fr. Ins. 1912.

14. Tout navire préalablement prévenu des interdictions que vous auriez pu ainsi décider, ou provenant d'un port auquel vous auriez notifié ces interdictions, et qui ne les aurait pas observées, sera considéré par vous comme participant aux hostilités.—Fr. Ins. 1912.

ART. 6. Exempt from seizure are: (b) Vessels engaged exclusively in the coast fisheries or in the service of local shipping traffic, so long as they take no part whatever in hostilities. The coast fisheries are not restricted to the territorial waters of the respective states; the matter includes the entire fishing with the exception of the declared high-sea fisheries.—Ger. O. 1909.

ART. 25. Enemy vessels which are engaged exclusively in coast fishery or in short voyages of local nature, shall be exempt from capture, together with their fishing implements, equipments, and cargoes. The exemption mentioned in the preceding paragraph shall cease to

be applicable from the time such vessels take part in any way in hostile operations.—Jap. Reg. 1914.

ART. 26. An officer commanding a man-of-war may permit coast fishery and short voyages of local nature on the enemy coast only in daytime. In case, however, there is apprehension of abusing the above permission against hostile operations of the Japanese army and navy, he may totally prohibit such fishery and voyage in daytime as at night.—Jap. Reg. 1914.

ART. 27. Vessels which violate the prohibition of the preceding article notwithstanding that they knew or may be presumed to know such prohibition, shall be deemed as to have taken part in hostile actions.—Jap. Reg. 1914.

#### Postal correspondence.

ART. 1. The postal correspondence of neutrals or belligerents, whatever its official or private character may be, found on the high seas on board a neutral or enemy ship, is inviolable. If the ship is detained, the correspondence is forwarded by the captor with the least possible delay. The provisions of the preceding paragraph do not apply, in case of violation of blockade, to correspondence destined for or proceeding from a blockaded port.—XI, H. C. 1907.

ART. 53. B. *Correspondance postale.*—La correspondance postale, quelque soit son caractère officiel ou privé, trouvée en mer sur un bâtiment ennemi, est inviolable, à moins qu'elle ne soit en destination ou en provenance d'un port bloqué. L'inviolabilité de la correspondance postale ne soustrait pas les paquebots-poste aux lois et coutumes de la guerre sur mer concernant les navires en général. Toutefois la visite n'en doit être effectuée qu'en cas de nécessité avec tous les ménagements et toute la célérité possibles. S'il y a saisie du navire sur lequel la poste est embarquée, la correspondance est expédiée avec le moins de retard possible par le capteur.—Institut, 1913.

87. The genuine postal correspondence of neutrals or belligerents, found on board a neutral or enemy ship at sea, is inviolable. If the ship is detained, such postal correspondence is to be forwarded by the captor with the least possible delay. The provisions of the preceding paragraph do not apply, in case of violation of blockade, to correspondence destined for or proceeding from a blockaded port.—U. S. Ins. 1917.

122. La correspondance postale des neutres ou des belligérants, quel que soit son caractère officiel ou privé, trouvée en mer sur un navire neutre ou ennemi, est inviolable. S'il y a saisie du navire, elle est expédiée avec le moins de retard possible par le capteur.—Fr. Ins. 1912.

122. The postal correspondence of neutrals or belligerents, whatever be its official or private character found at sea on a neutral or enemy ship, is inviolable. Should the ship be seized, it will be forwarded with the least delay possible by the captor. Postal packages have not the character of postal correspondence.—Fr. Ins. 1916.

123. Les dispositions précédentes ne s'appliquent pas, en cas de violation de blocus, à la correspondance qui est à destination ou en provenance de port bloqué.—Fr. Ins. 1912.

124. Elles ne sont également applicables qu'entre les puissances qui ont ratifié la Convention de La Haye du 18 octobre 1907 relative à certaines restrictions à l'exercice du droit de capture dans la guerre maritime, ou qui ont adhéré à cette Convention, et seulement si les belligérants sont tous parties à cette Convention.—Fr. Ins. 1912.

7. The mails found on board neutral or enemy ships at sea from neutrals or belligerents, whether of an official or private nature, are inviolate. In case of the seizure of the ship, they are to be forwarded with the least possible delay by the captor.—Ger. O. 1909.

16. After having examined the ship's papers, the officer asks the master to present what mail he has, searches for correspondence of the hostile government and, generally speaking, all packages addressed to the enemy's ports.—Rus. Ins. 1900.

ART. XXXIV. In visiting or searching a neutral mail ship if the mail officer of the neutral country on board the ship swears in a written document that there are no contraband papers in certain mail bags those mail bags shall not be searched. In case of grave suspicion, however, this rule does not apply.—Jap. Reg. 1904.

ART. LXVIII. When a mail steamer is captured, mail bags considered to be harmless shall be taken out of the ship without breaking the seal, and steps shall be taken quickly to send them to their destination at the earliest date.—Jap. Reg. 1904.

30. All mails on board the captured ships shall be forwarded to their destination, except the mails sent from or destined to a blockade port.—China, Reg. 1917.

ART. 108. Postal correspondence, official or private, of neutral or enemy persons found on board a neutral or an enemy vessel, must be respected, and in the case of capture of the vessel, the captor shall send them to their destinations as soon as possible. In the case of violation of a blockade the rules of the preceding paragraph do not apply to correspondence destined for, or proceeding from, the blockaded port.—Jap. Reg. 1914.

ART. 111. In the cases of article 108, paragraph 2, and article 110, the commanding officer of a man-of-war shall seize letters, official or private, which are addressed to enemy authorities or persons re-

siding in the enemy territory or territory occupied by the enemy, and if he thinks it necessary, he shall forward them to the Minister of the Navy. With regard to letters on board the captured vessel which do not come under the preceding paragraph, steps shall be taken to forward them to their addresses as soon as possible.—Jap. Reg. 1914.

125. Dans le cas des paragraphes 123 et 124, vous pourrez prendre connaissance des lettres officielles ou particulières adressées aux autorités ennemis ou à des personnes résidant sur le territoire de l'ennemi ou occupé par lui et trouvées à bord des bâtiments capturés; s'il en est qui présentent de l'intérêt, vous les adresserez sans délai au Ministre de la Marine, vous expédierez les autres à leur destination avec le moins de retard possible.—Fr. Ins. 1912.

#### Postal vessels.

ART. 2. The inviolability of postal correspondence does not exempt a neutral mail ship from the laws and customs of maritime war as to neutral merchant ships in general. The ship, however, may not be searched except when absolutely necessary, and then only with as much consideration and expedition as possible.—XI, H. C. 1907.

88. Neutral mail ships are subject to the laws and customs of maritime war applicable to neutral merchant ships in general.—U. S. Ins. 1917.

55. The inviolability of certain postal correspondence does not exempt a neutral mail ship from the laws and customs of maritime war as to neutral merchant ships in general.—U. S. Ins. 1917.

126. L'inviolabilité de la correspondance postale ne soustrait pas les paquebots-poste neutres aux lois et coutumes de la guerre sur mer concernant les navires de commerce neutres en général. Toutefois la visite n'en doit être effectuée qu'en cas de nécessité, avec tous les ménagements et toute la célérité possibles.—Fr. Ins. 1912.

ART. 7. The inviolability of mails does not exempt neutral mail steamers from the laws and usages of war on sea, nor from capture; but they shall be searched only when urgent, with all possible consideration and despatch.—Ger. O. 1909.

ART. 109. The inviolability of postal correspondence does not exempt a neutral mail ship from the laws and customs of maritime warfare which are applicable to neutral vessels in general. However, visit and search shall be made leniently and quickly, and only in case of necessity.—Jap. Reg. 1914.

ART. 110. The provisions of article 108 shall be applied only to vessels of the countries which ratified the treaty No. 11 of 1912, treaty relating to limitation of exercise of the right of capture in maritime warfare, or which have become a party thereto.—Jap. Reg. 1914.

**ENEMY CHARACTER****VESSELS**

Whereas by the Declaration of London, order in council No. 2, 1914, His Majesty was pleased to declare that during the present hostilities the provisions of the said Declaration of London should, subject to certain exceptions and modifications therein specified, be adopted and put in force by His Majesty's Government; and

Whereas by article 57 of the said declaration, it is provided that the neutral or enemy character of a vessel is determined by the flag which she is entitled to fly; and

Whereas it is no longer expedient to adopt the said article;

Now, therefore, His Majesty, by and with the advice of his privy council, is pleased to order, and it is hereby ordered, that from and after this date articles 57 of the Declaration of London shall cease to be adopted and put in force.

In lieu of the said article, British prize courts shall apply the rules and principles formerly observed in such courts.

This order may be cited as "The Declaration of London, order in council, 1915."

—Br. O. in C., Oct. 20, 1915.

ART. 1. The provisions of article 57, paragraph 1, of the Declaration signed at London, February 26, 1909, relating to naval warfare, shall be applied during the present war, with the following modification to it whenever it is established that a ship flying an enemy flag belongs in fact to the nationals of a neutral or an allied country, or conversely that a ship flying a neutral or allied flag belongs in fact to nationals of an enemy country, or to parties residing in an enemy country, the ship shall accordingly be considered neutral, allied, or enemy.—Fr. Dec. 23, 1915.

11. A neutral ship will be treated as an enemy ship if the property belongs partly or wholly to citizens of enemy states. As citizens of enemy states in the sense of this ordinance are also to be considered judicial persons or societies of other countries which have their seat in enemy countries. It will be considered as equal to location in an enemy country if the capital belongs overwhelmingly to citizens of enemy countries, or if the management is carried on by enemy citizens, or is directed from or controlled by an enemy country. The same holds good if the fact has been established that capital or other means to carry on the business is contributed from citizens of enemy countries or from enemy countries themselves.—Ger. P. C. amendment, July 16, 1917.

If due to general combination of circumstances it appears, that in a vessel sailing under the enemy's flag are actually interested, subjects of neutral or allied powers, or that, on other hand, if in a vessel sailing under neutral or allied flag there are actually interested

subjects of an enemy power or persons living in an enemy state, then such a vessel may in consequence be considered as neutral, allied, or enemy. The governing Senate will not fail to make suitable dispositions for fulfillment.—Rus. P. O. Feb. 4, 1916.

PAR. 4. If under the general circumstances of the case it appears, that in a vessel sailing under the enemy's flag are actually interested subjects of neutral or allied powers, or that, on the other hand, in a vessel sailing under neutral or allied flag there are actually interested subjects of an enemy power or persons living in an enemy state—then such a vessel may in consequence be considered as neutral, allied, or enemy. The governing Senate will not fail to make suitable dispositions for fulfillment.—Rus. Dec. 8, 1916.

#### ART. VI. The following are enemy vessels:

1. Vessels employed by the enemy, including the case in which such employment is compulsory.
2. Vessels voyaging under the enemy's flag or with license of the enemy.
3. Vessels, the whole or part of which is owned by the enemy state or its subjects. Vessels that have certificates of nationality as Japanese, or that voyage under the license of Japan, do not, however, come under this rule.
4. Vessels, the ownership of which has been transferred before the war, but in expectation of its outbreak or during the war, by the enemy state or its subjects to persons having residence in Japan or a neutral state, unless there is proof of a complete and bona fide transfer of ownership.

In case the ownership of a vessel is transferred during its voyage and actual delivery is not effected, such transfer of ownership shall not be considered as complete and bona fide.—Jap. Reg. 1904.

ART. 18. The neutral or enemy character of a vessel is determined by the flag which she has the right to fly. A neutral ship which is engaged, with a license from the government of the enemy State, on a voyage which is forbidden by that state in peace to foreign ships, is deemed an enemy ship.—Jap. Reg. 1914.

3. Ships regarded as of enemy character in the present regulations shall be as follows:

- (a) Ships flying the enemy flags.
- (b) Ships flying neutral flags in accordance with law but the whole of a portion of the owners of the ship have domicile in enemy countries.
- (c) Ships employed by the enemy countries.
- (d) Enemy ships being transferred to persons having domicile in the Republic or other neutral countries during the war or in anticipation of the war, without the transfer fully completed and having no proof to show the bona fide of the deal.—China, Reg. 1917.

ART. 51. *Du caractère ennemi.*—Le caractère ennemi ou neutre d'un navire est déterminé par le pavillon qu'il a le droit de porter. Le caractère ennemi ou neutre de marchandises trouvées à bord d'un

navire ennemi est déterminé par le caractère ennemi ou neutre de leur propriétaire. Chaque Etat doit déclarer, au plus tard dès le début des hostilités, si le caractère ennemi ou neutre du propriétaire des marchandises est déterminé par le domicile ou par la nationalité de ce propriétaire. Le caractère ennemi de la marchandise trouvée à bord d'un navire ennemi subsiste jusqu'à l'arrivée à destination, nonobstant un transfert intervenu pendant le cours de l'expédition, après l'ouverture des hostilités. Toutefois, si, antérieurement à la capture, un précédent propriétaire neutre exerce, en cas de faillite du propriétaire ennemi actuel, un droit de revendication légale sur la marchandise, celle-ci reprend le caractère neutre.—Institut, 1913.

ART. 57. Subject to the provisions respecting the transfer of flag, the neutral or enemy character of a vessel is determined by the flag which she is entitled to fly. The case in which a neutral vessel is engaged in a trade which is reserved in time of peace, remains outside the scope of, and is in no wise affected by, this rule.—D. of L. 1909.

56. The neutral or enemy character of a private vessel is determined by the neutral or enemy character of the State whose flag the vessel has a right to fly as evidenced by her papers.—U. S. Ins. 1917.

27. Neutral ships are those which are entitled to fly the flag of a neutral State.—Ger. P. C. 1916.

15. When the captain is not in a position to determine to which flag a vessel which has been transferred to a neutral flag formerly belonged he is authorized to assume that she belongs to the enemy flag.—Ger. O. 1909.

27. *Caractère neutre ou ennemi.*—Sous réserve des dispositions de l'Article XIII ci-après, relativement au transfert de pavillon, le caractère d'un navire est déterminé par le pavillon qu'il a le droit de porter. Le caractère neutre ou ennemi des marchandises trouvées à bord d'un navire ennemi est déterminé par la nationalité de leur propriétaire. Si le caractère neutre de la marchandise trouvée à bord d'un navire ennemi n'est pas établi, la marchandise est présumée ennemie.—Fr. Ins. 1912.

27. Under reservation of the dispositions of Article XIII following, concerning the transfer of flag, the character of a ship is determined by the flag which it has the right to bear. However, should it be ascertained that the interests in the property of the ship bearing enemy flag, belong in fact to subjects of a neutral or allied country, or, reciprocally, that the interests in the property of a ship bearing a neutral or allied flag belong in fact to subjects of an enemy country, or to persons residing in enemy country, the ship will in consequence be considered neutral, allied, or enemy.

28. The neutral or enemy character of the merchandise found on board an enemy ship is determined by the nationality of their owner. Should the neutral character of the merchandise found on board an enemy ship not be established, the merchandise will be presumed to be enemy. A neutral flag covers enemy merchandise, with the exception of contraband of war. Should, without infringing the above rule, some particular measure be taken concerning enemy commerce, you will be informed of the same.—Fr. Ins. 1916.

3. Sous réserve des dispositions de l'Article XIII ci-après, relatives au transfert de pavillon, tout navire est présumé ennemi qui ne peut justifier du droit de porter un pavillon neutre.—Fr. Ins. 1912.

11. The character of a ship, whether enemy or neutral, will be determined by the flag which she has a right to carry. Which flag a ship has the right to carry is proven, under the navigation laws of nearly all seafaring States by some official document (ship's register, nationality certificate, lettre de mer, acte de Francisation, zeebrief, pass, patent, fribreef, etc.) which each merchant vessel must have on board. When the nationality of a ship can not unquestionably be determined, especially if the document necessary to indicate the right to carry the flag of the nation concerned is missing, the ship is to be treated as hostile.—Ger. O. 1909.

#### Vessels engaging in closed trade (Rule of 1756).

16. A neutral ship is to be treated as an enemy ship further when it—(a) engages in a voyage which is permitted only since the outbreak of the war, or within two months. A neutral ship is to be treated as an enemy ship further when it—(b) forcibly resists the measures of the law of prize; against such ship, force of arms is to be employed until resistance ceases; mere attempt to escape does not constitute forcible resistance.—Ger. O. 1909.

#### Suspected neutral vessels.

Vessels subject to detention are the following:

(3) All suspicious vessels, although sailing under a neutral flag. The following and other similar acts furnish grounds for considering a merchant vessel as suspicious:

(a) If the vessel does not stop its engines or lie to upon the demand of the cruiser, in consequence whereof the latter is compelled to give chase and use force in order to stop her.

(b) If the vessel has no papers, or has counterfeit or suspicious papers.

(c) If there are grounds for supposing that the vessel was fictitiously sold to a neutral subject after the declaration of war.

(d) If the halted vessel has shown resistance to the examination, and likewise if the master refuse to open the apartments on the demand of the examining officer.—Rus. Ins. 1906.

## CARGO

Owner.

ART. 58. The neutral or enemy character of goods found on board an enemy vessel is determined by the neutral or enemy character of the owner.—D. of L. 1909.

59. The neutral or enemy character of merchandise on board an enemy private vessel is determined by the neutral or enemy commercial domicile of the owner, whether the owner be an individual, a firm, or a corporation. In the absence of proof of the neutral character of goods found on board an enemy vessel, they are presumed to be enemy goods.—U. S. Ins. 1917.

20. (a) The captain will regard the goods found on board an enemy ship as enemy goods, unless the neutral character of the goods is clearly shown. (b) The character of the goods found on board an enemy ship as neutral or enemy goods, is determined by the nationality of the owner. If he have no, or as much neutral as hostile nationality, the character of the goods is determined by the domicile of the owner. Goods which belong to a stock corporation will be regarded as enemy's or neutral according as the corporation has its headquarters in a hostile or neutral country.—Ger. O. 1909.

ART. VIII. The national character of a cargo shall be decided by the national character of the owner.—Jap. Reg. 1904.

ART. 19. The neutral or enemy character of goods found on board an enemy vessel is determined by the neutral or enemy character of the owner, and in case such owner has dual nationality, by whether his residence lies in a neutral State or in an enemy State.—Jap. Reg. 1914.

ART. IX. In the following cases the cargo shall be considered enemy property, in spite of the above regulations:

1. A cargo consigned before the war but in expectation of its outbreak or during the war by a person who has residence in the Empire or in a neutral State or by his representative to the enemy State or to a subject of the enemy State or to his representative.

2. A cargo, the ownership of which has been transferred before the war but in expectation of its outbreak or during the war by the enemy State or its subject to a person who has a residence in the Empire or in a neutral State, unless there is proof of full bona fide transfer.

In case the ownership of a cargo is transferred during a voyage, and actual delivery is not effected, such transfer shall not be considered bona fide and full.—Jap. Reg. 1904.

ART. 20. If the neutral character of goods found on board an enemy vessel is not proven, they are presumed to be enemy goods.—Jap. Reg. 1914.

4. Enemy goods are as follows: (a) Goods owned by persons having domicile in the enemy countries. (b) Goods owned by persons having domicile in the Republic or other neutral countries and

consigned to enemy countries or subjects during the war or in anticipation of it. (c) Enemy goods being transferred to persons having domicile in the Republic or other neutral countries during the war or in anticipation of it without the transfer being fully concluded and having no proof to show the bona fide of the deal.—China, Reg. 1917.

#### Presumption.

ART. 59. If the neutral character of goods found on board an enemy vessel is not proven, they are presumed to be enemy goods.—D. of L. 1909.

#### Transfers in transitu.

ART. 60. The enemy character of goods on board an enemy vessel continues until they reach their destination, notwithstanding an intervening transfer after the opening of hostilities while the goods are being forwarded. If, however, prior to the capture, a former neutral owner exercises, on the bankruptcy of a present enemy owner, a legal right to recover the goods, they regain their neutral character.—D. of L. 1909.

61. Enemy goods on board an enemy vessel retain their enemy character, notwithstanding any transfer effected after the outbreak of hostilities. If, however, prior to capture, a former neutral owner exercises on the bankruptcy of the enemy owner a recognized legal right to recover the goods, they retain their neutral character.—U. S. Ins. 1917.

ART. 20. (c) The proof, whose property portions of the cargo are and whether they are neutral goods will in general hardly be determinable on board. The character of goods carried as freight on board an enemy vessel continues as enemy goods until the arrival at destination, regardless of any change of ownership during the voyage after the outbreak of hostilities. (d) Neutral goods may be transferred to enemy ownership during the voyage.—Ger. O. 1909.

ART. 21. The enemy character of goods on board an enemy vessel continues until they reach their destination notwithstanding an intervening transfer after the opening of hostilities while the goods are being forwarded. If, however, prior to the capture, a former neutral owner exercises, on the bankruptcy of a present enemy owner, a legal right to recover the goods, they regain their neutral character.—Jap. Reg. 1914.

#### PRODUCE OF ENEMY SOIL

60. Articles which are products of the soil of an enemy country and shipped therefrom after the outbreak of war are impressed with the enemy character of the territory, although the owner may be domiciled or resident in a neutral country.—U. S. Ins. 1917.

### PERSONS, DOMICILE

**ART. III.** The national character of a person shall be decided by the place of his actual residence, whatever his nationality may be.—Jap. Reg. 1904.

**ART. IV.** By the place of residence is meant the place where a person permanently lives; in the case of a merchant, the place where he principally carries on his business; and in the case of a consul who is engaged in mercantile business, the place where he carried on that business.—Jap. Reg. 1904.

5. "Domicile" means a certain place permanently resided by a person. In case the party concerned is a juristic person, the place where its head office is situated shall be considered as its domicile.—China, Reg. 1917.

### RESIDENTS OF OCCUPIED TERRITORY

**ART. V.** The district temporarily occupied by the enemy shall not be considered enemy territory in respect to the national character of persons, ships, and their cargoes.—Jap. Reg. 1904.

6. The term "enemy countries" shall be equally applied to territories being occupied by the enemy troops.—China, Reg. 1917.

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### NEUTRAL PROPERTY

#### LIABILITY

##### **Neutral vessels, liability to capture.**

64. A neutral private vessel is in general liable to capture if she—

(a) Attempts to avoid visit and search by flight, but this must be clearly evident; or resists with force.

(b) Presents irregular or fraudulent papers, or lacks necessary papers, or destroys, defaces, or conceals papers.

(c) Carries contraband, except when permitted by treaty to surrender ("deliver up," "deliver out") the contraband to the captors.

(d) Has broken or has attempted to break a blockade.

(e) Has engaged in unneutral service.

(f) Is under enemy convoy; or under neutral convoy to avoid rightful capture.—U. S. Ins. 1917.

7. Nothing in this order shall be deemed to affect the liability of any vessel or goods to capture or condemnation independently of this order.—Br. O. in C., Mar., 1915.

26. Les neutres sont autorisés par le droit des gens à continuer librement leur commerce avec les belligérants. Toutefois les navires

neutres sont soumis au droit de visite et, éventuellement, à la capture dans les cas suivants :

1. S'ils résistent à la visite dans les conditions de l'Article XII ci-après ;
2. S'ils transportent des objets de contrebande de guerre, dans les conditions de l'Article VIII ci-après ;
3. S'ils prêtent assistance à l'ennemi dans les conditions de l'Article IX ci-après ;
4. S'ils tentent de violer un blocus dans les conditions de l'Article X ci-après.—Fr. Ins. 1912.

ART. 7. In other cases which have not been provided for in this decree or other national legislation in force, the provisions bearing on the subject contained in the legislation of the allied nations, as well as the general principles of public international law shall be applicable.—Port. Dec. 1916.

2. The right of capture does not apply to neutral public vessels.—Ger. O. 1909.

2. Merchant ships, under whatever flag they may be sailing, shall be subject to capture in accordance with the provisions of the following articles if—

- (a) Guilty of violation of blockade.
- (b) Transporting contraband of war.
- (c) Lending assistance to the enemy.
- (d) They forcibly resist or endeavor to avoid search.
- (e) They are without ship's papers, or have on board ship's papers or manifests which are either falsified, altered, or insufficient so as to give rise to suspicion that they are concealing their real nationality or the real description or destination of the cargo.
- (f) They are going to an enemy port, while on the ship's papers a neutral destination is indicated.

(g) They have been transferred from an enemy to a neutral flag subsequent to the outbreak of war, or not more than 30 days before that date, or not more than 60 days when the deed of sale by which the transfer of flag was effected is not found on board.—Italy, P. R. 1915.

11. Merchant vessels of neutral nationality are subject to confiscation as prizes in the following cases: (1) When the vessels are caught conveying to the enemy or to any enemy's port: (a) Ammunition, as well as objects and accessories for making explosives, independently of their quantity; (b) other objects contraband of war, in quantities exceeding, by volume or weight, half of the entire cargo; (c) hostile military detachments, unless it be proven in all these cases that the declaration of war remained unknown to the masters of these vessels; (2) when the vessels are caught violating

a blockade and it is not proven that the establishment of the blockade remained unknown to the masters; (3) when the vessels have resisted by armed force their stoppage, examination, or detention; and (4) when they have taken part in the hostile operations of the enemy.—Rus. Reg. 1895.

12. The cargo of merchant vessels of neutral nationality is subject to confiscation as prizes: (1) When such cargo consists of contraband of war being conveyed to the enemy or to any enemy's port and it is not proven that the declaration of war was unknown to the masters of the vessels; (2) when the cargo is found on board a vessel subject to confiscation by virtue of points 2-4 of article 11, and it is not proven that it belongs to Russian owners or to neutral owners not guilty of violations involving confiscation.—Rus. Reg. 1895.

28. Detained property is subjected to confiscation only in case it belongs to the class of articles which may be confiscated as prizes (arts. 10-12) and provided it has been detained in observance of the conditions laid down (arts. 2, 3, and 15-17). In a contrary case the property is released and returned to the original owner.—Rus. Reg. 1895.

#### ART. 37. Vessels subject to detention are the following:

##### Neutral merchant vessels—

(a) If they are carrying to the enemy any quantity whatever of ammunition, objects, or appurtenances for making explosives, or detachments of hostile troops.

(b) If they are carrying to the enemy other articles contraband of war in a quantity exceeding by volume or weight half of the whole cargo.

NOTE.—If the quantity of such contraband of war is less than half of the whole cargo, the vessel is detained only until the contraband is surrendered, and it is left to the discretion of the commander as to whether such surrender may be made at the place of detention or after the vessel has been conducted into port.

(c) If they are caught violating an actual and declared blockade.

(d) If they have shown armed resistance to stoppage or examination.

(e) If they have taken part in hostile operations of the enemy.

#### ART. 38. Cargoes subject to detention are the following:

(2) Hostile and neutral cargoes found on neutral vessels which have violated their neutrality: that is—

(a) On neutral vessels which have taken part in hostile operations of the enemy;

(b) Which have shown armed resistance to stoppage, examination, or detention; and

(c) Caught violating a blockade.

(3) All cargoes which constitute contraband of war, with the exception of articles constituting the armament and provisioning of the neutral vessel itself.

In detaining vessels and cargoes the rule is observed that personal effects intended for the personal use of the crew and passengers is not subject to detention.

Except in the above-mentioned cases the following rules are observed:

(1) A neutral flag covers an enemy's cargo with the exception of contraband of war.

(2) Neutral goods, with the exception of contraband of war, are not subject to detention under a hostile flag.—Rus. Ins. 1900.

**ART. XXXVII.** Any vessel that comes under one of the following categories shall be captured, no matter of what national character it is:

1. Vessels that carry persons, papers, or goods that are contraband of war.

2. Vessels that carry no ship's papers, or have willfully mutilated or thrown them away, or hidden them, or that produce false papers.

3. Vessels that have violated a blockade.

4. Vessels that are deemed to have been fitted out for the enemy's military service.

5. Vessels that engage in scouting or carry information in the interest of the enemy, or are deemed clearly guilty of any other act to assist the enemy.

6. Vessels that oppose visitation or search.

7. Vessels voyaging under the convoy of an enemy's man-of-war.—Jap. Reg. 1904.

**ART. 25. III.** The following ships are liable to capture, whether they are under a neutral flag or under the flag of the Republic of China :

(a) Ships carrying contraband of war or hostile persons.

(b) Ships in violation of blockade.

(c) Ships engaged in giving information to the enemy or participating in any hostile acts in the interest of the enemy.

(d) Ships under the convoy of the enemy flag.

(e) Ships having no necessary papers or giving fraudulent papers or having destroyed, concealed, defaced their papers.—China, Reg. 1917.

**ART. XXXIX.** Vessels that come under one of the following cases may be captured, no matter of what national character they are:

1. When a vessel does not produce the necessary papers or they are not kept in good order.

2. When there are contradictions among the ship's papers or between the statements of the master and the ship's papers.

3. Besides the above two cases, when as the result of visitation or search there is sufficient suspicion to justify capture according to articles from XXXV to XXXVII.—Jap. Reg. 1904.

ART. LXV. After visit and search has been made, if the captain of the man-of-war still has suspicion of the vessel, he shall order the boarding officer to hear the explanation of her master; and if after those explanations there still appear to be grounds for capturing her, such vessel shall be captured.—Jap. Reg. 1904.

ART. LXVI. In deciding whether a vessel is to be captured or not, the nature of the vessel, her equipments, cargo, and papers, the master and crew and their testimony, etc., shall be taken into consideration.—Jap. Reg. 1904; art 151, Reg. 1914.

#### **Neutral property, under enemy flag.**

(3) Neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag.—D. of P. 1856.

68. Neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag.—U. S. Ins. 1917.

ART. 3. (b) Neutral goods, except contraband of war, are not liable to confiscation under the enemy's flag.—Spain, Dec. 1898.

## **TRANSFER OF FLAG**

#### **Transfer of flag.**

108. Lorsqu'il résulte de l'examen des pièces de bord que le navire est passé récemment sous pavillon neutre, il y a lieu de procéder avec la plus grande attention et de s'inspirer des règles suivantes.—Fr. Ins. 1912.

#### **Before war.**

ART. 55. The transfer of an enemy vessel to a neutral flag, effected before the opening of hostilities, is valid, unless it is proved that such transfer was made in order to evade the consequences which the enemy character of the vessel would involve. There is, however, a presumption that the transfer is void if the bill of sale is not on board in case the vessel has lost her belligerent nationality less than 60 days before the opening of hostilities. Proof to the contrary is admitted. There is absolute presumption of the validity of a transfer effected more than 30 days before the opening of hostilities if it is absolute, complete, conforms to the laws of the countries concerned, and if its effect is such that the control of the vessel and the profits of her employment do not remain in the same hands as before the transfer. If, however, the vessel lost her belligerent nationality less than 60 days before the opening of hostilities, and if the bill of sale is not on board, the capture of the vessel would not give a right to compensation.—D. of L. 1909.

**ART. 52. *Du transfert du pavillon.***—Le transfert sous pavillon neutre d'un navire ennemi, effectué avant l'ouverture des hostilités, est valable, à moins qu'il soit établi que ce transfert a été effectué en vue d'éviter les conséquences qu'entraîne le caractère de navire ennemi. Il y néanmoins présomption de nullité si l'acte de transfert ne se trouve pas à bord, alors que le navire a perdu la nationalité belligérante moins de soixante jours avant l'ouverture des hostilités; la preuve contraire est admise. Il y a présomption absolue de validité d'un transfert effectué plus de trente jours avant l'ouverture des hostilités, s'il est absolu, complet, conforme à la législation des pays intéressés, et s'il a cet effet: que le contrôle du navire et le bénéfice de son emploi ne restent pas entre les mêmes mains qu'avant le transfert. Toutefois, si le navire a perdu la nationalité belligérante moins de soixante jours avant l'ouverture des hostilités, et si l'acte de transfert ne se trouve pas à bord, la saisie du navire ne pourra donner lieu à des dommages et intérêts.—Institut, 1913.

57. The transfer of a vessel from one flag to another is valid when completed previous to the outbreak of war in which the State of the vendor is a belligerent, provided the transfer is made in accordance with the laws of the State of the vendor and the State of the vendee.—U. S. Ins. 1917.

109. Le transfert sous pavillon neutre d'un navire ennemi, effectué avant l'ouverture des hostilités, est valable à moins qu'il ne soit établi que ce transfert a été effectué en vue d'éviter les conséquences qu'entraîne le caractère de navire ennemi. Il y a néanmoins présomption de nullité si l'acte de transfert ne se trouve pas à bord, alors que le navire a perdu la nationalité belligérante moins de soixante jours avant l'ouverture des hostilités; la preuve contraire est admise.—Fr. Ins. 1912.

110. Il y a présomption absolue de validité d'un transfert effectué plus de trente jours avant l'ouverture des hostilités, s'il est complet, absolu, conforme à la législation des pays intéressés et s'il a cet effet que le contrôle du navire et le bénéfice de son emploi ne restent pas entre les mêmes mains qu'avant le transfert. Toutefois, si le navire a perdu la nationalité belligérante moins de soixante jours avant l'ouverture des hostilités et si l'acte de transfert ne se trouve pas à bord, la saisie du navire ne pourra donner lieu à des dommages et intérêts.—Fr. Ins. 1912.

13. When the transfer to a neutral flag has taken place within 30 days before the outbreak of war the ship is to be treated as hostile, provided—

(a) The legal requirements necessary to the validity of the transfer have not been fulfilled so that an actually valid transfer to the neutral flag has not taken place.

(b) Or there is good reason to believe that it can be proved before the prize court that the transfer took place to relieve the ship of the consequences of her character as an enemy ship, so especially when the ship after the transfer is further employed on the same route as before.

(c) Or the transfer document is not on board, unless sufficient evidence is shown that the transfer would also have taken place without war; the seizure of the ship in such a case gives rise to no claim for damages.—Ger. O. 1909.

14. When the transfer to a neutral flag took place earlier than 30 days before the outbreak of hostilities the ship is to be treated as hostile only when—

(a) The transfer took place later than 60 days before the outbreak of hostilities.

(b) The transfer is only conditional or incomplete or not in conformity with the legal requirements of the participant countries, or the result is that the control of the ship or the earnings from her employment remain in the same hands as before.

(c) Grounds exist for the belief that it can be proved before the prize court that the transfer was effected in order to relieve the ship of the consequences of her character as an enemy ship.

This especially may be taken for granted when the transfer document is not found on board; the bringing in of the ship in such case never gives rise to a claim for damages.—Ger. O. 1909.

ART. 22. The transfer of an enemy vessel to a neutral flag, effected before the opening of hostilities, is valid, unless it is proved that such transfer was made in order to evade the consequences which the enemy character of the vessel would involve. There is, however, a presumption that the transfer is void if the bill of sale is not on board in case the vessel has lost her belligerent nationality less than 60 days before the opening of hostilities. Proof to the contrary is admitted. There is absolute presumption of the validity of a transfer effected more than 30 days before the opening of hostilities if it is absolute, complete, conforms to the laws of the countries concerned, and if its effect is such that the control of the vessel and the profits of her employment do not remain in the same hands as before the transfer. If, however, the vessel lost her belligerent nationality less than 60 days before the opening of hostilities, and if the bill of sale is not on board, the capture of the vessel would not give a right to compensation.—Jap. Reg. 1914.

#### **During war.**

ART. 56. The transfer of an enemy vessel to a neutral flag, effected after the opening of hostilities, is void unless it is proved

that such transfer was not made in order to evade the consequences which the enemy character of the vessel would involve.

There is, however, absolute presumption that a transfer is void:

(1) If the transfer has been made during a voyage or in a blockaded port.

(2) If there is a right of redemption or of revision.

(3) If the requirements upon which the right to fly the flag depends according to the laws of the country of the flag hoisted have not been observed.—D. of L. 1909.

ART. 52. Le transfert sous pavillon neutre d'un navire ennemi, effectué après l'ouverture des hostilités, est nul, à moins qu'il soit établi que ce transfert n'a pas été effectué en vue d'éviter les conséquences qu'entraîne le caractère de navire ennemi. Toutefois, il y a présomption absolue de nullité: 1. Si le transfert a été effectué pendant que le navire est en voyage ou dans un port bloqué. 2. S'il y a faculté de reméré ou de retour. 3. Si les conditions auxquelles est soumis le droit de pavillon d'après la législation du pavillon arboré, n'ont pas été observées.—Institut, 1913.

58. The transfer of a private vessel of a belligerent to a neutral flag during war is valid if in accordance with the laws of the State of the vendor and of the vendee, provided that it is made in good faith and is accompanied by a payment sufficient in amount to leave no doubt of good faith; that it is absolute and unconditional, with a complete divestiture of title by the vendor, with no continued interest, direct or indirect, of the vendor, and with no right of repurchase by him; and that the ship does not remain in her old employment.—U. S. Ins. 1917.

112. Le transfert sous pavillon neutre d'un navire ennemi, effectué après l'ouverture des hostilités, est nul, à moins qu'il ne soit établi que ce transfert n'a pas été effectué en vue d'éviter les conséquences qu'entraîne le caractère de navire ennemi, par exemple par suite d'héritage.

113. Toutefois il y a présomption absolue de nullité:

1. Si le transfert a été effectué pendant que le navire est en voyage ou dans un port bloqué.

2. S'il y a faculté de reméré ou de retour.

3. Si les conditions auxquelles est soumis le droit de pavillon, d'après la législation du pavillon arboré, n'ont pas été observées.—Fr. Ins. 1912.

12. As enemy ships, are further to be treated those which after the beginning of hostilities have been transferred from a hostile to a neutral flag, provided—

(a) Either the captain is not convinced that the transfer would have been made had there been no outbreak of war, as, for instance, in case of inheritance, or building contract.

(b) Or the transfer is effected while the ship was in passage or in a blockaded port.

(c) Or a repurchase or return agreement is reserved.

(d) Or the conditions are not fulfilled upon which the right to carry the flag depends, according to the legal requirements of the State concerned.—Ger. O. 1909.

24. A ship which has been transferred from an enemy to a neutral flag since the outbreak of war is to be treated as an enemy vessel, unless the commanding officer is convinced that the transfer would have been made even had the war not broken out; for example, in the way of inheritance. In other respects, where a transfer of flag is in question the provisions of Prize Regulations Nos. 10–15 are to be applied. Former German ships, condemned as prizes in an enemy country and afterwards sold to neutrals, are liable to capture, as the transfer of flag took place after the outbreak of war. These ships, if possible, should be brought into port. If this is impossible, they must be destroyed.—Ger. P. C. 1916.

7. The nationality of a vessel is determined according to the laws of the nation under whose flag it sails or to whose navy it claims to belong. Merchant vessels acquired from a hostile power or its subjects by persons of neutral nationality are acknowledged to be hostile vessels unless it is proven that the acquisition must be considered, according to the laws of the nation to whom the purchasers belong, as having actually taken place before the purchasers received news of the declaration of war, or that the vessels acquired in the manner mentioned, although after the receipt of such news, were acquired quite conscientiously and not for the purpose of covering hostile property.—Rus. Reg. 1895.

ART. 23. The transfer of an enemy vessel to a neutral flag, effected after the opening of hostilities, is void unless it is proved that such transfer was not made in order to evade the consequences which the enemy character of the vessel would involve. There is, however, absolute presumption that a transfer is void—

1. If the transfer has been made during a voyage or in a blockaded port.

2. If there is a right of redemption or of reversion.

3. If the requirements upon which the right to fly the flag depends according to the laws of the country of the flag hoisted have not been observed.—Jap. Reg. 1914.

#### **Following capture.**

114. Ces règles ne sont, bien entendu, pas applicable lorsque la vente du navire ennemi à un sujet neutre a été effectuée par les autorités françaises, à la suite d'une prise.—Fr. Ins. 1912.

**Liability of vessel.**

111. Si, d'après ces considérations, vous estimez suffisante la présomption de nullité de l'acte de transfert, vous capturerez le navire suspect.—Fr. Ins. 1912.

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## SUBMARINES

**Regulation in commercial war.**

41. Submarines are to be guided in the first instance by the special order which they receive. If they are waging war on commerce in accordance with the Prize Regulations, they are to observe the foregoing articles, except where articles 42 and 43 below permit a different procedure to submarines.—Ger. P. C. 1916.

**Visit and search by.**

42. When holding up a ship, submarines, instead of firing blank rounds, may at once fire live shells across her bows, as it is generally impossible to distinguish blank rounds at any great distance.

P. O. 81. Submarines have the right to order the ship's papers of any vessel held up to be brought alongside in a boat. Prize regulation No. 81 no longer applies in the case of submarines.—Ger. P. C. 1916.

**Destruction of enemy vessel.**

43. *Holding up, examination, etc.*—(a) P. O. 112. If it is established without doubt that the ship held up is an enemy vessel and can not be brought in, a search of the ship is unnecessary. She can simply be informed by signal that within a reasonable time the crew must abandon her with the papers. After being abandoned, the ship is to be sunk. When the commanding officer has satisfied himself that his order has been understood but nevertheless the crew have not obeyed it, he will compel them to do so by using force.

P. O. 123. If possible, the ship's papers and cargo papers should afterwards be secured.—Ger. P. C. 1916.

**Destruction of neutral vessel.**

43. (b) In the case of a neutral ship the ship's papers and cargo papers should be examined after they have been brought alongside before any further action is taken. If the commanding officer is satisfied that his order to bring the ship's papers and cargo papers alongside has been understood, but it is not complied with by the neutral ship, he is justified in threatening to use force.

If the neutral ship still fails to obey, she is to be treated as an enemy vessel which has offered active resistance, provided that the commanding officer has satisfied himself that the refusal to obey orders can not be due to a misunderstanding.

**NOTE.**—Instances have occurred where, after holding up a ship, the submarine has dived in order to approach nearer to her, submerged, and the ship

has resumed her voyage because she concluded from the disappearance of the submarine that she herself had been released. In such cases, it should only be regarded as an attempt to escape if the Commanding Officer has informed the ship of his intention. The fact of the ship proceeding can never be regarded as active resistance.

—Ger. P. C. 1916.

## PRIVATEERS

### Privateering.

(1) Privateering is and remains abolished.—D. of P. 1856.

ART. 12. *Course, navires privés, navires publics ne constituant pas des navires de guerre.*—La course est interdite.

En dehors des conditions déterminées aux articles 3 et suivants, les navires publics et les navires privés ainsi que leur personnel, ne peuvent pas se livrer à des actes d'hostilité contre l'ennemi.

Il est toutefois permis aux uns et aux autres d'employer la force pour se défendre contre l'attaque d'un navire ennemi.—Institut, 1913.

117. *Capture des corsaires ou des pirates.*—En cas de prise d'un corsair régulièrement pourvu de lettres de marque par un Gouvernement n'ayant pas adhéré à la Déclaration de Paris, vous procéerez de la même manière. Le capitaine, les officiers et l'équipage de ce corsaire seront traités comme il est dit au paragraphe 146 pour les bâtiments de guerre.

Le capitaine, les officers et l'équipage de tout navire armé en course par un Gouvernement signataire de la Déclaration de 1856, étant passibles des peines prévues pour le crime de piraterie, devront être considérés non comme prisonniers de guerre, mais comme détenus, et remis aux autorités françaises les plus proches pour être poursuivis conformément aux lois de la République.—Fr. Ins. 1912.

ART. IV. The Spanish Government, while maintaining their right to issue letters of marque, which they expressly reserved in their note of May 16, 1857, in reply to the request of France for the adhesion of Spain to the declaration of Paris relative to maritime law, will organize for the present a service of "auxiliary cruisers of the navy," composed of ships of the Spanish mercantile navy, which will cooperate with the latter for the purpose of cruising, and which will be subject to the statutes and jurisdiction of the navy.—Spain, Dec., 1898.

### Treated as pirates.

ART. VII. Captains, commanders, and officers of non-American vessels or of vessels manned as to one-third by other than American citizens, captured while committing acts of war against Spain, will be treated as pirates, with all the rigor of the law, although pro-

vided with a license issued by the Republic of the United States.—Spain, Dec., 1898.

## CONVERSION

### **State control.**

ART. 1. A merchant ship converted into a warship can not have the rights and duties securing to such vessels unless it is placed under the direct authority, immediate control, and responsibility of the power whose flag it flies.—VII, H. C. 1907.

ART. 3. *Transformation des navires publics et privés et bâtiments de guerre.*—Aucun navire transformé en bâtiment de guerre ne peut avoir les droits et les obligations attachés à cette qualité, s'il n'est placé sous l'autorité directe, le contrôle immédiat et la responsabilité de la puissance dont il porte le pavillon.—Institut, 1913.

### **Distinguishing marks.**

ART. 2. Merchant ships converted into warships must bear the external marks which distinguish the warships of their nationality.—VII, H. C. 1907.

ART. 4. Les navires transformés en bâtiments de guerre doivent porter les signes extérieurs distinctifs des bâtiments de guerre de leur nationalité.—Institut, 1913.

### **Command.**

ART. 3. The commander must be in the service of the State and duly commissioned by the competent authorities. His name must figure on the list of the officers of the fighting fleet.—VII, H. C. 1907.

ART. 5. Le commandant doit être au service de L'Etat et dûment commissionné par les autorités compétentes; son nom doit figurer sur la liste des officiers de la flotte militaire.—Institut, 1913.

ART. 4. The crew must be subject to military discipline.—VII, H. C. 1907.

ART. 6. L'équipage doit être soumis aux règles de la discipline militaire.—Institut, 1913.

### **Observance of law of war.**

ART. 5. Every merchant ship converted into a warship must observe in its operations the laws and customs of war.—VII, H. C. 1907.

ART. 7. Tout navire transformé en bâtiment de guerre est tenu d'observer dans ses opérations les lois et coutumes de la guerre.—Institut, 1913.

### **Notification.**

ART. 6. A belligerent who converts a merchant ship into a warship must, as soon as possible, announce such conversion in the list of warships.—VII, H. C. 1907.

ART. 8. Le belligérant qui transforme un navire en bâtiment de guerre doit, le plus tôt possible, mentionner cette transformation sur la liste des bâtiments de sa flotte militaire.—Institut, 1913.

#### Place.

ART. 9. La transformation d'un navire en bâtiment de guerre ne peut être faite par un belligérant que dans ses propres eaux, dans celles d'un Etat allié également belligérant, dans celles de l'adversaire, ou enfin dans celles d'un territoire occupé par les troupes de l'un de ces Etats.—Institut, 1913.

#### Status.

ART. 112. The conversion into a man-of-war is connected with the requirements of Convention VII, second Hague Conference.—Ger. O. 1909.

ART. 15. With regard to conversion of merchant ships into men-of-war, the provisions of the treaty No. 7 of 1912, a treaty relating to conversion of merchant ships into men-of-war shall be followed.—Jap. Reg. 1914.

NOTE.—The treaty referred to is Convention VII, Hague, 1907.

#### Conversion of war vessel.

ART. 10. *Transformation des bâtiments de guerre en navires publics ou privés.*—Un bâtiment de guerre ne peut, tant que durent les hostilités, être transformé en navire public ou en navire privé.—Institut, 1913.

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## CONVOY

#### Suspected vessel.

ART. 98. If the commanding officer of the Japanese man-of-war has reason to suspect that the confidence of the commander of the convoy has been abused, the Japanese commanding officer shall communicate his suspicions to the commander of the convoy. In this case it is for the commander of the convoy alone to conduct an investigation. However, if the commander of the convoy requests the assistance of the commanding officer of the Japanese man-of-war, the latter may dispatch an officer under him as a witness. The result of such investigation will be stated in a report by the convoying ship, of which a copy is to be furnished to the officer of the Japanese man-of-war.—Jap. Reg. 1914.

#### Suspected vessel, capture.

ART. 99. If in the opinion of the commander of the convoy there are facts which justify the capture of one or more vessels, and if the protection of the convoy has been withdrawn from such, the commanding officer of the Japanese man-of-war shall capture it or them.—Jap. Reg. 1914.

**Objection of commanding officer.**

ART. 100. If the commanding officer of the Japanese man-of-war does not agree with the opinion of the commander of the convoy with regard to vessels under convoy of neutral ships of war, the Japanese commanding officer shall send an objection to the commander of the convoy and shall immediately report the same to the Minister of the Navy.—Jap. Reg. 1914.

**Exemption from visit and search.**

ART. 97. Neutral vessels under convoy of their national flag are exempt from search if the commander of the convoy, by request of the commanding officer of a Japanese man-of-war who wants to visit the vessels, gives in writing all information as to the character of the vessels and their cargoes, which could be obtained by visit and search.—Jap. Reg. 1914.

**Neutral.**

ART. 61. Neutral vessels under convoy of their national flag are exempt from search. The commander of a convoy gives, in writing, at the request of the commander of a belligerent ship of war, all information as to the character of the vessels and their cargoes, which could be obtained by visit and search.—D. of L. 1909.

ART. 62. If the commander of the belligerent ship of war has reason to suspect that the confidence of the commander of the convoy has been abused, he communicates his suspicions to him. In such a case it is for the commander of the convoy alone to conduct an investigation. He must state the result of such investigation in a report, of which a copy is furnished to the officer of the ship of war. If, in the opinion of the commander of the convoy, the facts thus stated justify the capture of one or more vessels, the protection of the convoy must be withdrawn from such vessels.—D. of L. 1909.

51. Neutral vessels under convoy of vessels of war of their own nationality are exempt from search. The commander of the convoy gives orally or in writing, at the request of the commander of a belligerent ship of war, all information regarding the vessels and their cargoes which could be obtained by visit and search.—U. S. Ins. 1915.

87. Les navires neutres sous convoi de leur pavillon sont, en principe, exempts de visite. Toutefois vous agirez à leur égard comme il est dit à l'article suivant.—Fr. Ins. 1912.

18. No visit shall be made on board of vessels under the convoy of the warships of neutral countries. But upon the request of the captain of the warship, the captain of the neutral warship acting as convoy shall give a detailed statement regarding the nature of the vessel under his convoy, the cargoes on board and its destination and also produce a conclusive proof that the vessel is not of sus-

picious character under any of the circumstances as provided under article 11.—China, Reg. 1917.

**Neutral, suspected vessel.**

52. If the commander of the United States vessel has reason to suspect that the commander of the convoy has been deceived regarding the innocent character of any of the vessels (and their cargoes or voyages) under his convoy, the former officer shall impart his suspicions to the latter. In such a case it is to be expected that the commander of the convoy will undertake an examination to establish the facts. The commander of the convoy alone can conduct this investigation; the officers of the United States visiting vessel can take no part therein.—U. S. Ins. 1917.

53. The commander of the convoy may be expected to report the result of his investigation to the commander of the United States vessel. Should that result confirm the latter's suspicions, the former may further be expected to withdraw his protection from the suspected vessel; whereupon she shall be made a prize by the commander of the United States vessel.—U. S. Ins. 1917.

104. Si vous avez lieu de soupçonner que la religion du commandant du convoi a été surprise, vous lui communiquerez vos soupçons. C'est au commandant du convoi seul qu'il appartient, en ce cas, de procéder à une vérification. Vous pourrez cependant accepter l'offre qu'il vous ferait d'assister à cette vérification. Il devra constater le résultat de cette visite par un procès-verbal dont une copie sera remise à l'un de vos officiers. Si des faits ainsi constatés justifiaient, dans l'opinion du commandant du convoi, la saisie d'un ou de plusieurs navires, la protection du convoi devrait leur être retirée, et vous procéderiez à cette saisie.—Fr. Ins. 1912.

**Neutral, statement of commander.**

103. *Convoi.*—En ce qui concerne les navires sous convoi, le commandant du convoi vous donnera par écrit, à votre demande, sur le caractère des navires convoyés et sur leur chargement, toutes informations que la visite servirait à obtenir.—Fr. Ins. 1912.

6. Neutral ships under convoy of their man-of-war flag are exempt from visit and search. The commander of the convoy has to give the captain in writing at his request, concerning the character of the ship or her cargo, any information which could be ascertained by searching. If the captain has reason to believe that the commander of the convoy has been deceived, he will inform him of his reasons for his suspicion. In such case it is the duty of the commander of the convoy alone to have an investigation. He must state the results of the investigation in a protocol of which a copy is to be given to the officer of the belligerent ship. Should the ascertained facts in the opinion of the commander of the convoy justify

the seizure of one or more ships, the protection of the convoy must be withdrawn from them. Should on the other hand the commander of the convoy believe that he may still answer for the innocence of the convoyed ships, the captain may only enter a protest against this decision; he will then report the case to the admiralty staff, for settlement through diplomatic channels. It rests with the commander of the convoy whether or not to permit a representative of the captain to take part in the investigation.—Ger. O. 1909.

#### Neutral, protest.

105. Si des divergences s'élèvent entre vous et le commandant du convoi, notamment à propos de la contrabande, vous pourrez seulement lui adresser une protestation écrite. Vous m'en rendrez compte immédiatement, et la difficulté sera réglée par voie diplomatique.—Fr. Ins. 1912.

#### Neutral, declaration.

10. Neutral vessels convoyed by a ship of war shall be exempt from visit provided that the commander of the convoy declares in writing the character and cargo of the convoyed vessel in such a manner as will enable all information to be available which could be obtained by exercising the right of visit. If the naval officers in command have reason to think that the good faith of the commanding officer of the escort has been imposed upon, they will communicate to him their suspicion, so that he may on his own account make the necessary verifications and issue a written report.—Italy, Dec. 1915.

11. Merchant vessels sailing under convoy, under charge of one or more ships of the navy of their nation, are absolutely exempt from the visit of the belligerents, being protected by the immunity enjoyed by the war ships. As the formation of a convoy is a measure emanating from the government of the State to which belong the vessels protecting the convoy, as well as the vessels under convoy, it must be taken as certain that the government in question not only will not allow fraud of any kind, but has employed the strictest measures to avoid fraud being committed by any of the vessels under the convoy. It is therefore useless for the belligerent to inquire of the chief officer of the convoy whether he guarantees the neutrality of the ships sailing under his charge, or of the cargo they carry.—Spain, Ins. 1898.

6. In time of war at sea merchant vessels (acknowledged to be which are all vessels not belonging to the "war" navy) may be subjected to stoppage and examination for the purpose of ascertaining their nationality and whether they are observing neutrality. Merchant vessels sailing under military convoy of an allied or neutral power are not subjected to examination, provided the com-

mander of the convoy furnishes a certificate as to the number of vessels being convoyed, their nationality, and the destination of the cargoes, and also as to the fact that there is no contraband of war on the vessels. The stoppage and examination of these vessels is permitted only in the following cases:

(1) When the commander of the convoy refuses to give the certificate mentioned; (2) when he declares that one or another vessel does not belong to the number of those sailing under his convoy, and (3) when it becomes evident that a vessel being convoyed is preparing to commit an act constituting a breach of neutrality.

—Rus. Reg. 1895.

**ART. XXXIII.** A neutral vessel under convoy of a war vessel of her country shall not be visited nor searched if the commanding officer of the convoying war vessel presents a declaration signed by himself stating that there is on board the vessel no person, document, or goods that are contraband of war, and that all the ship's papers are perfect, and stating also the last port which the vessel left and her destination. In case of grave suspicion, however, this rule does not apply.—Jap. Reg. 1904.

#### Enemy.

54. Any vessel under convoy of a vessel of war of an enemy is liable to capture.—U. S. Ins. 1917.

106. Le fait, pour un neutre, de se faire convoyer par un bâtiment de guerre ennemi, c'est-à-dire se placer sous sa protection, le rend suspect et forclos du droit de se plaindre s'il est atteint d'avaries ou même détruit dans le combat.—Fr. Ins. 1912.

107. Le fait, par un navire de commerce ennemi, de se faire convoyer par un bâtiment de guerre ennemi l'expose à toutes vos attaques, directes et indirectes.—Fr. Ins. 1912.

**ART. XLIX.** Vessels voyaging under convoy of the enemy's men-of-war, and all goods belonging to the owners of such vessels, shall be forfeited.—Jap. Reg. 1904.

47. The vessel and cargo under the convoy of enemy flag are liable to condemnation.—China, Reg. 1917.

**ART. 101.** Vessels under convoy of the enemy flag are liable to capture. Vessels coming under the preceding paragraph may be attacked and destroyed according to necessity.—Jap. Reg. 1914.

#### Enemy, liability of property.

**ART. 102.** Vessels voyaging under convoy of the enemy flag and their cargoes are liable to condemnation.—Jap. Reg. 1914.

## BLOCKADE

### Definition.

10. "Blockade" means the effective prohibition of communication of an enemy port with the outside world by a fleet or squadron of ships having the adequate force to enforce the same. "To run blockade" means the attempt of vessels to get through the blockaded zone, for which a notice has already been issued.—China, Reg. 1917.

### Declaration and notification.

ART. 8. A blockade, in order to be binding, must be declared in accordance with article 9, and notified in accordance with articles 11 and 16.—D. of L. 1909.

ART. 12. The rules relative to the declaration and to the notification of blockade are applicable in the case in which the blockade may have been extended, or may have been reestablished after having been raised.—D. of L. 1909.

67. Le blocus, pour être obligatoire, doit être déclaré conformément au paragraphe 68 et notifié conformément aux paragraphes 69 et 77.—Fr. Ins. 1912.

64. The declaration and publication of the blockade are made according to 65 and 71, 74 and 75.—Ger. O. 1909.

ART. 38. A blockade, in order to be binding, must be proclaimed in accordance with article 39 and notified in accordance with articles 40 and 45.—Jap. Reg. 1914.

ART. 9. A declaration of blockade is made either by the blockading power or by the naval authorities acting in its name.

It specifies—

- (1) The date when the blockade begins;
- (2) The geographical limits of the coast blockaded;
- (3) The delay to be allowed to neutral vessels for departure.—D. of L. 1909.

68. Si, en l'absence d'une déclaration de blocus faite par le Gouvernement lui-même, vous êtes appelé à établir un blocus de votre propre initiative, vous devez préalablement faire une déclaration précisant: 1. La date du commencement du blocus; 2. Les limites géographiques du littoral bloqué, expressément désignées en latitude et longitude; 3. Le délai de sortie à accorder aux navires neutres.—Fr. Ins. 1912.

ART. XXII. When a blockade is instituted the commanding officer of the squadron or man-of-war shall issue a declaration of blockade by filling out Form I with the area of blockade and the date of the declaration.—Jap. Reg. 1904.

65. The blockade declaration is issued either by the Government of the blockading power or by the naval commander.

**It must contain:—**

- (a) The day of beginning of the blockade;
- (b) The exact geographical limits of the blockaded coast;
- (c) The period of time which will be allowed the neutral ships, and which must be at least sufficient for them to leave the port.

—Ger. O. 1909.

ART. 39. With regard to proclamation of a blockade when it is not made by the Imperial Government, it may be made by the commander of a squadron.

Proclamation of a blockade shall be made in Form No. 1 and shall contain the following items:—

1. The date when the blockade begins.
2. The geographical limits of the coast blockaded.
3. The delay to be allowed to neutral vessels for departure.

—Jap. Reg. 1914.

66. When the blockade was begun later, or has less wide extent than is stated in the blockade declaration, the declaration is void and therewith the whole blockade legally not binding. In such case the issue of a new declaration is necessary, in order to make the blockade legally effective at least for the future. If the blockade began earlier or extended wider than stated in the blockade declaration the blockade is legally binding only from the time and coastal extent which were indicated in the blockade declaration. If the declaration omits to state the period for leaving port, a neutral ship has the right of free passage outward from a blockaded port, unless she has previously, with knowledge of the blockade, broken it by entering. The naval commander can supply any data lacking at any time by publishing and communicating a supplementary declaration to the local competent authorities.—Ger. O. 1909.

ART. 10. If the blockading power, or the naval authorities acting in its name, do not establish the blockade in conformity with the provisions, which, in accordance with article 9 (1) and (2), must be inserted in the declaration of blockade, the declaration is void, and a new declaration is necessary in order to make the blockade operative.—D. of L. 1909.

79. It is not a violation of blockade by entry when the ship is actually on the way to an open port, even when the ship intends to proceed thence to a blockaded port or her cargo will be forwarded to such a port.—Ger. O. 1909.

ART. 53. Whatever may be the ulterior destination of the vessel or of her cargo, she is not liable to capture as a blockade breaker if she is at the time bound toward an unblockaded port.—Jap. Reg. 1914.

4. If a ship is shaping its course toward a blockaded zone in ignorance of the existence of the blockade, she shall be notified of it

by one of the blockading vessels, entry to that effect, being made, if possible, in her log. Ignorance of the existence of blockade is assumed when this has been declared after the ship left its last port of call.—Italy, P. R. 1915.

**ART. 11. A declaration of blockade is notified—**

(1) To the neutral powers, by the blockading power by means of a communication addressed to the Governments themselves, or to their representatives accredited to it;

(2) To the local authorities, by the officer commanding the blockading force. These authorities will, on their part, inform, as soon as possible, the foreign consuls who exercise their functions in the port or on the coast blockaded.

—D. of L. 1909.

**PAR. 4. The existence of a blockade shall be presumed to be known—**

(a) To all ships which sailed from or touched at an enemy port a sufficient time after the notification of the blockade to the local authorities to have enabled the enemy Government to make known the existence of the blockade;

(b) To all ships which sailed from or touched at a British or allied port after the publication of the declaration of blockade.

—Br. O. in C., August 20, 1914.

**4. The existence of a blockade shall be presumed to be known :**

(a) To all vessels which have left a hostile port or have entered such a port during such a period following the notification of the local authorities of the blockade as may appear sufficient in order that the hostile Government may make it known.

(b) To all vessels which have left a Russian or allied port or have entered such a port after the publication of the declaration of the blockade.

—Rus. Dec. Sept. 1, 1914.

69. Dans tous les cas, l'établissement d'un blocus devra également faire l'objet d'une notification formelle aux autorités des points bloqués. Cette notification, dont vous trouverez le modèle à l'Annexe III, sera envoyée à ces autorités, en même temps qu'au consul de l'une des Puissances neutres, au moyen d'un parlementaire.—Fr. Ins. 1912.

70. Le cas échéant, vous feriez connaître, par la voie la plus rapide, toute disposition prise de votre propre initiative pour l'établissement d'un blocus, afin de me permettre de compléter, dans le plus bref délai, votre notification aux autorités locales par une notification aux Puissances neutres par la voie diplomatique.—Fr. Ins. 1912.

57. Upon declaring a blockade, the naval commander must report as soon as possible to his superior and besides directly to the chief of the admiralty staff of the navy. He must take all possible steps to make the fact of blockade known generally as quickly as possible.—Ger. O. 1909.

**67. The blockade declaration is to be made known :**

(a) To neutral powers by the government of the blockading power through diplomatic channels. The neutral powers have to provide for making the blockade known within their borders, especially in their ports.

(b) To the local competent authorities through the commander of the blockading force. These must on their parts as soon as possible communicate the declaration to the foreign consuls of the blockaded ports or coasts for the information of the citizens of the neutral countries and the ships there.

The communication can be made in any way, so far as it is made certain it reaches the hands of the local competent authorities. It is sufficient in any case to inform the port authorities.—Ger. O. 1909.

68. If on account of the omission of the commander of the blockading force the information has not been given to the port authorities, a neutral ship has the right of free passage out of a blockaded port, unless it has, with previous knowledge of the blockade, broken it by entering. The naval commander may make up for the notification in question at any time.—Ger. O. 1909.

ART. XXIV. When the commanding officer of a squadron or a man-of-war declares a blockade, he shall take the following steps:

1. He shall report the declaration of the blockade to the minister of the navy.

2. He shall report the declaration of the blockade to every Japanese minister residing in the countries near the blockaded area, and shall request him to inform the Government of the country and all the foreign ministers and consuls residing in the country to which he is accredited of the establishment of the blockade.

3. He shall communicate the declaration of the blockade to all the foreign consuls residing in neutral districts in the neighborhood of the blockaded area, and shall take any other measures necessary to make known the fact of the blockade.

4. He shall inform as far as possible, by means of a flag of truce, the proper officers and consuls of neutral countries residing within the blockaded area, of the declaration of the blockade.—Jap. Reg. 1904.

ART. 40. When a squadron commander has proclaimed a blockade, he shall immediately take the following steps:

1. He shall report to the Minister of the Navy by the quickest method the declaration of blockade and all the measures taken in regard to the establishment of the blockade.

2. He shall notify the proper authorities of the blockaded coast and at least one of the consuls of neutral States, if there are such consuls, of the proclamation of blockade, using the flag of truce, according to Form No. 2. If the enemy refuses to receive a military messenger's vessel or if there are circumstances which make

the use of such vessel impossible, the notification shall be sent as far as possible by any suitable means.—Jap. Reg. 1914.

ART. 14. The liability of a neutral vessel to capture for breach of blockade is contingent on her knowledge, actual or presumptive, of the blockade.—D. of L. 1909.

ART. 43. The liability of a neutral vessel to capture for breach of blockade is contingent on her knowledge, actual or presumptive, of the blockade.—Jap. Reg. 1914.

ART. 15. Failing proof to the contrary, knowledge of the blockade is presumed if the vessel left a neutral port subsequently to the notification of the blockade made in sufficient time to the power to which such port belongs.—D. of L. 1909.

ART. 44. Failing proof to the contrary, knowledge of the blockade is presumed if the vessel left a neutral port subsequently to the notification of the blockade made in sufficient time to the power to which such port belongs. Vessels which left enemy ports after lapse of a proper period from the time when the proper authorities of a blockaded district had been notified of blockade, or vessels which left Japanese ports or ports of an allied power after the proclamation had been published, are presumed to know of the fact of the blockade.—Jap. Reg. 1914.

ART. 16. If a vessel which approaches a blockaded port does not know or can not be presumed to know of the blockade, the notification must be made to the vessel itself by an officer of one of the ships of the blockading force. This notification must be entered in the vessel's log book, with entry of the day and hour, as also of geographical position at the time. A neutral vessel which leaves a blockaded port must be allowed to pass free if, through the negligence of the officer commanding the blockading force, no declaration of blockade has been notified to the local authorities, or, if, in the declaration, as notified, no delay has been indicated.—D. of L. 1909.

ART. 45. If a vessel which approaches a blockaded port does not know or can not be presumed to know of the blockade, the notification must be made to the vessel itself by an officer of one of the ships of the blockading force. The notification of the preceding paragraph must be entered in the vessel's log book in accordance with Form No. 3, with entry of the day and hour, as also of the geographical position of the vessel at the time.—Jap. Reg. 1914.

28. Neutral vessels are entitled to notification of a blockade before they can be made prize for its attempted violation. The character of this notification is not material. It may be actual, as by a vessel of the blockading force, or constructive, as by a proclamation or notice of the Government maintaining the blockade, or by common notoriety.—U. S. Ins. 1917.

30. If a neutral vessel attempting to enter a blockaded port has had notice of the blockade in any way, she shall be captured and sent in for adjudication; but should formal notice not have been given, the rule of constructive knowledge arising from notoriety should be construed in a manner liberal to the neutral. Vessels appearing before a blockaded port, having sailed without notification, are entitled to actual notice by a blockading vessel. The boarding officer shall enter in the log and the document fixing the vessel's nationality the fact of such notice, the extent of the blockade, the date, the geographical position, and the name of the blockading vessel, verified by his official signature; and shall furnish the master with copy of the blockade proclamation. The vessel is then to be set free. Should she again attempt to enter the same or any other blocked port as to which she has had notice, she is good prize.—U. S. Ins. 1917.

77. Si le navire qui approche du port bloqué n'a pas connu ou ne peut être présumé avoir connu l'existence du blocus, la notification doit être faite au navire même par un officier de l'un des bâtiments de la force bloquante. Cette notification doit être portée sur le livre de bord avec indication de la date et de l'heure ainsi que de la position géographique du navire à ce moment.—Fr. Ins. 1912.

69. To make the blockade legally binding according to 59, the notification under 67 (a), suffices for in-going ships; as long as this has not been done, the blockade declaration must be especially communicated to each in-going ship, according to 74. For outgoing ships, the notification of 67 (b) is sufficient.—Ger. O. 1909.

#### **Notification, special, inward.**

74. Should a neutral ship approach a blockaded port without having knowledge of the existence of the blockade or when such knowledge can not be assumed, the declaration of blockade is to be communicated to it by an officer of one of the blockading ships. He must enter in the ships log book the notification, under the date and hour and the ship's position. Therewith the blockade is legally binding for that ship, so far as declaration and notification come in question.

The notification to the commander of the convoy is binding on all the convoyed ships.

If a hostile ship is captured under these circumstances, there is no breach of blockade; the neutral part of the cargo is therefore not confiscated.—Ger. O. 1909.

**ART. XXV.** In case the master of a vessel receives warning direct from an imperial war vessel, or it is clear that he knows of the existence of the blockade from official or private information or from any other source, such master shall be considered to have received actual notice of the blockade.—Jap. Reg. 1904.

**ART. XXVI.** In the following cases it shall be deemed that notice of the declaration of the blockade has been received:

1. The case in which the master of a vessel is considered to have received a notice of the blockade whether he has actually received it or not, such notice having been sent to the proper authorities of the country to which the vessel belongs, and there having elapsed a sufficient time for the authorities to notify the residents of their nationality.

2. The case in which the master of a vessel is considered to have received a notice of the blockade, the fact of the blockade having been made public.—Jap. Reg. 1904.

76. The knowledge of the blockade is, save proof of the contrary, presumed when the ship left a neutral port subsequent to the notification, in due time, of the blockade to the power on which such port is dependent. The same will apply in the case of a ship that has left a French, allied or enemy port subsequently to the notification in due time to the power of which the ship bears the flag.—Fr. Ins. 1916.

72. A ship can be seized for breach of blockade only when it had knowledge of the blockade, or such knowledge on its part can be assumed.—Ger. O. 1909.

73. In judging whether the knowledge existed or not, are to be considered—

(a) The progress and reach of the notification; (b) that the blockade declaration in German and allied ports will be published as soon as possible; (c) that the existence of the blockade will not be known immediately in the enemy ports.—Ger. O. 1909.

#### Notification, special, outward.

75. If the enemy has made it impossible for the commander of the blockading force to communicate the declaration to the competent local authorities, every neutral ship leaving a blockaded port is entitled to the special notification provided for under 74. If such is once given and the ship returns to the blockaded port, then all other vessels leaving this port will be assumed to have knowledge of the blockade.—Ger. O. 1909.

#### Area.

ART. 1. A blockade must be limited to the ports and coasts belonging to or occupied by the enemy.—D. of L. 1909.

ART. 30. *Blocus*.—Les ports et côtes de l'ennemi non occupés par lui peuvent être soumis à un blocus conformément aux règles du droit international.—Institut, 1913.

26. A blockade must be limited to the ports and coasts belonging to or occupied by the enemy; must not bar access to neutral ports or coasts. A blockade, to be binding, must be effective. A blockade must be applied equally to the ships of all nations.—U. S. Ins. 1917.

64. Le blocus doit être limité aux ports et aux côtes de l'ennemi ou occupés par lui.—Fr. Ins. 1912.

65. Les forces bloquantes ne doivent pas barrer l'accès aux ports et aux côtes neutres.—Fr. Ins. 1912.

58. The blockade must be limited to the coasts and harbors of the enemy or in his possession; the blockading force must not bar the passages to neutral ports and coasts.—Ger. O. 1909.

ART. 34. A blockade must be limited to the ports and coasts belonging to or occupied by the enemy.—Jap. Reg. 1914.

#### Impartiality.

ART. 5. A blockade must be applied impartially to the ships of all nations.—D. of L. 1909.

61. The blockade is impartially administered when it is maintained equally against the merchant shipping of all flags.—Ger. O. 1909.

ART. 37. A blockade must be applied impartially to the ships of all nations.—Jap. Reg. 1914.

#### Effectiveness.

(4) Blockades in order to be binding must be effective—that is to say, maintained by a force sufficient really to prevent access to the coast of the enemy.—D. of P. 1856.

ART. 2. In accordance with the Declaration of Paris of 1856, a blockade, in order to be binding, must be effective—that is to say, it must be maintained by a force sufficient really to prevent access to the enemy coast.—D. of L. 1909.

ART. 3. The question whether a blockade is effective is a question of fact.—D. of L. 1909.

27. The blockade, to be effective and binding, must be maintained by a force sufficient to render ingress to or egress from the port dangerous. If the blockading vessels be driven away by stress of weather and return thereafter without delay to their station, the continuity of the blockade is not thereby broken. The blockade ceases to be effective if the blockading vessels are driven away by the enemy or if they voluntarily leave their stations, except for a reason connected with the blockade; as, for instance, the chase of a blockade runner. As the suspension of a blockade is a serious matter, involving a new notification, commanding officers will exercise especial care to preserve the continuity and effectiveness of the blockade.—U. S. Ins. 1917.

66. Conformément à la Déclaration de Paris, le blocus pour être obligatoire, doit être effectif, c'est-à-dire maintenu par une force suffisante pour interdire réellement l'accès du littoral à l'ennemi.—Fr. Ins. 1912.

59. To be legally binding, the blockade must be effective, impartially administered, and declared and made known in the manner prescribed.—Ger. O. 1909.

60. The blockade is effective when it is maintained by a force which is sufficient actually to prevent access to the hostile coast. The question whether a blockade according to the number and station of the blockading force with reference to the geographical situation before it is actually effective is subject in every single case to test by prize court. It will be denied when, among other things, the sea traffic of a blockade port with any other not blockaded port can be maintained.—Ger. O. 1909.

ART. 3. (c) A blockade to be binding must be effective; that is to say, maintained with a sufficient force to actually prevent access to the enemy's coast.—Spain, Dec. 1898.

ART. 35. In accordance with the Declaration of Paris of 1856, a blockade, in order to be binding, must be effective—that is to say, it must be maintained by force sufficient really to prevent access to the enemy coast.—Jap. Reg. 1914.

#### Purpose.

ART. XXI. Blockade is to close an enemy's port, bay, or coast with force, and is effective when the force is strong enough to threaten any vessels that attempt to go in or out of the blockaded port or bay or to approach the blockaded coast. Temporary evacuation of a blockaded area by a squadron or man-of-war on account of bad weather or to attain the object of the blockade does not interfere with the effectiveness of the blockade.—Jap. Reg. 1904.

#### Suspension.

ART. 4. A blockade is not regarded as raised if the blockading forces are temporarily driven off by bad weather.—D. of L. 1909.

ART. 13. The voluntary raising of a blockade, as also any limitation which may be introduced, must be notified in the manner prescribed by article 11.—D. of L. 1909.

ART. 42. The voluntary raising of a blockade, as also any limitation which may be introduced, must be reported and notified in the manner prescribed by article 40.—Jap. Reg. 1914.

72. Le blocus n'est pas considéré comme levé si, par suite de mauvais temps, les forces bloquantes se sont momentanément éloignées.—Fr. Ins. 1912.

73. La levée volontaire du blocus, ainsi que toute restriction qui y serait apportée, doit être notifiée dans la même forme que ci-dessus.—Fr. Ins. 1912.

71. If a blockade is voluntarily raised, or narrowed in its extent, this is to be made known as provided in 67. A blockade is not raised when the blockading force is temporarily withdrawn on account of heavy weather.—Ger. O. 1909.

ART. XXXI. When a blockade is discontinued the commanding officer of the squadron or the man-of-war shall immediately report

it to the minister of the navy and shall take necessary steps to make it generally known.—Jap. Reg. 1904.

#### **Temporary raising.**

ART. 36. A blockade is not regarded as raised if the blockading forces are temporarily driven off by bad weather.—Jap. Reg. 1914.

#### **Notification of extension.**

71. Il conviendra de remplir les même formalités si le blocus vient à être étendu à quelque nouveau point de la côte, ou est repris après avoir été levé.—Fr. Ins. 1912.

70. Should a blockade be extended beyond its original limits, a new declaration must be issued and made known, covering the area over which the blockade has extended. When a blockade, after being raised, is again established, a new declaration and notification is necessary.—Ger. O. 1909.

ART. XXIII. When enforcing a new blockade after former blockade has lost its effectiveness, or when there is change in the area of blockade, a new declaration must be made according to the preceding article.—Jap. Reg. 1904.

ART. 41. The rules of foregoing articles relative to the declaration and to the notification of blockade are applicable in the case in which the blockade may have been extended, or may have been re-established after having been raised.—Jap. Reg. 1914.

#### **Days of grace.**

34. Blockading officers shall observe the terms of special rules adopted by the United States Government regarding days of grace and conditions of lading permitted to neutral vessels that find themselves within the limits of blockade at the time the blockade is established.—U. S. Ins. 1917.

#### **Vessel ignorant of.**

75. La saisissabilité d'un navire neutre pour violation de blocus est subordonnée à la connaissance réelle ou présumée du blocus.—Fr. Ins. 1912.

76. La connaissance du blocus est, sauf preuve contraire, présumée lorsque le navire a quitté un port neutre portérieurement à la notification, en temps utile, du blocus à la Puissance dont relève ce port.—Fr. Ins. 1912.

#### **Previous offense.**

31. The liability of a blockade runner to capture and condemnation begins and terminates with her voyage. If there is good evidence that she sailed with intent to evade the blockade, she is liable to capture from the moment she appears upon the high seas. If a vessel has succeeded in escaping from a blockaded port, she is liable

to capture at any time before she completes her voyage. But with the termination of the voyage the offense ends.—U. S. Ins. 1917.

#### Radius of action.

ART. 17. The seizure of neutral vessels for violation of blockade may be made only within the radius of action of the ships of war assigned to maintain an effective blockade.—D. of L. 1909.

ART. 50. The seizure of neutral vessels for violation of blockade may be made only within the radius of action of the ships of war assigned to maintain an effective blockade.—Jap. Reg. 1914.

ART. 18. The blockading forces must not bar access to the ports or to the coasts of neutrals.—D. of L. 1909.

77. A ship may be captured for breach of blockade not before it has reached the blockade zone in- or out-going.—Ger. O. 1909.

ART. 46. The blockading forces must not bar access to the ports or to the coasts of neutrals.—Jap. Reg. 1914.

#### Hot pursuit.

ART. 20. A vessel which in violation of blockade has left a blockaded port or has attempted to enter the port is liable to capture so long as she is pursued by a ship of the blockading force. If the pursuit is abandoned, or if the blockade is raised, her capture can no longer be effected.—D. of L. 1909.

78. A ship that has committed a breach of blockade is liable to capture so long as it is pursued by one of the ships of the blockading force. Capture is, however, no longer permissible when the blockade is raised or the pursuit is given up. The latter is not of itself the case when the ship has reached a neutral port.—Ger. O. 1909.

ART. 51. A vessel which in violation of blockade has left a blockaded port or has attempted to enter the port is liable to capture so long as she is pursued by a ship of the blockading force. If the pursuit is abandoned, or if the blockade is raised, her capture can no longer be effected.—Jap. Reg. 1914.

#### Liability of vessel and cargo.

ART. 21. A vessel found guilty of violation of blockade is liable to condemnation. The cargo is also liable to condemnation, unless it is proved that at the time the goods were shipped the shipper neither knew nor could have known of the intention to violate the blockade.—D. of L. 1909.

29. Blockade running is a distinct offense which subjects the vessel attempting to commit it, or sailing with intent to commit it, to capture without regard to the nature of her cargo.—U. S. Ins. 1917.

78. Tout navire qui force un blocus doit être capturé, fût-il neutre, allié ou national, sous réserve, à l'encontre de ce dernier, de l'appli-

cation des lois pénales édictées contre ceux qui entretiennent des intelligences avec l'ennemi.—Fr. Ins. 1912.

74. La violation d'un blocus ainsi établi résulte aussi bien de la tentative de pénétrer dans le lieu bloqué que de celle d'en sortir après la notification du blocus, à moins, dans ce cas, que ce ne soit dans le délai fixé et expressément mentionné dans la déclaration de blocus, délai qui devra être suffisant pour protéger la navigation et le commerce de bonne foi.—Fr. Ins. 1912.

80. Tout navire qui, après avoir reçu l'avertissement réglementaire, ne s'éloigne pas franchement et est surpris louvoyant autour de la côte bloquée, dans le rayon d'action de la force bloquante, devient suspect de fraude et peut être capturé.—Fr. Ins. 1912.

83. Vous capturerez tout navire reconnu coupable de violation de blocus. Ce navire sera passible de confiscation.—Fr. Ins. 1912.

80. A ship that has made itself liable for violation of blockade is subject, in addition to capture, to condemnation. Her cargo is also confiscable unless it is proved that the shipper at the time of shipping the merchandise neither knew nor could have known of the intention to violate the blockade. In case of doubt, the captain will regard the whole cargo as confiscable.—Ger. P. O. 1912.

3. A ship is liable to be captured for violation of blockade when it endeavors to enter or leave a blockaded zone without being furnished with a formal safe conduct, or when, after having obtained a safe conduct to enter or leave, it does not observe the rules laid down as to the route which it must follow while navigating in the blockaded zone or crossing the line of blockade.—Italy, P. R. 1915.

ART. XLV. A vessel that has broken through a blockade and her cargo shall be forfeited. If the owner of the cargo proves that he is innocent of such breach of blockade, such cargo shall be released.—Jap. Reg. 1904.

79. Toutefois aucune saisie ne peut être pratiquée à l'égard d'un navire qui, après avoir forcé le blocus, a gagné la haute mer et dont la chasse a été abandonnée.—Fr. Ins. 1912.

ART. 49. A vessel which attempts to leave a blockaded port or to enter it in violation of the blockade shall be captured as guilty of blockade breaking no matter to what nationality she may belong.—Jap. Reg. 1914.

45. Vessels in violation of blockade and the cargo on board the same are liable to condemnation unless the owner of such cargo can prove that he had no previous knowledge of the vessel's attempt to run the blockade.—China, Reg. 1917.

ART. 52. A vessel which enters within the radius of action of the blockading squadron and loiters in the neighborhood, is liable to capture, no matter what her destination mentioned in the ship's papers may be.—Jap. Reg. 1914.

**ART. 54.** A vessel found guilty of violation of blockade is liable to condemnation. The cargo is also liable to condemnation, unless it is proved that at the time the goods were shipped the shipper neither knew nor could have known of the intention to violate the blockade.—Jap. Reg. 1914.

#### **Violation.**

76. A breach of blockade is to be assumed as existing when a ship breaks through the blockade zone, or attempts to break through with intent to reach or leave a blockaded port. By blockade zone is to be understood the adjacent sea area which is controlled by the vessels of war which are charged with maintaining effectiveness of the blockade. The width of the blockade zone, and its position as well, depends upon the military and geographical conditions, as also upon the number of the disposable ships; but it may not, according to 58, be so situated that a neutral port or a neutral coast is accessible only by breaking through the blockade zone.—Ger. O. 1909.

**ART. XXVII.** The following vessels shall be considered to have broken through a blockade outward;

1. A vessel that has issued out of the blockaded area or has attempted to do so.

2. A vessel that has transshipped outside the blockaded area the cargo of a vessel that has broken through a blockade outward, or has attempted to make such transshipment.—Jap. Reg. 1904.

**ART. XXIX.** Any vessel which has received notification of a blockade shall be considered to have violated the blockade inward in the following cases:

1. When such vessel has passed into the blockaded area, or has attempted to do so.

2. When such vessel, lying in the neighborhood of the blockaded area, is considered to be steering into the area, no matter what port of destination is mentioned in the ship's papers.

3. When such vessel has transported or attempted to transport cargo to a blockaded place, by transshipping to another vessel outside of the blockaded area in order that the latter may pass the line of blockade.

4. When such vessel is bound for the blockaded port.—Jap. Reg. 1904.

#### **Continuous voyage.**

**ART. 19.** Whatever may be the ulterior destination of the vessel or of her cargo, the evidence of violation of blockade is not sufficiently conclusive to authorize the seizure of the vessel if she is at the time bound toward an unblockaded port.—D. of L. 1909.

84. La violation du blocus est insuffisamment caractérisée pour autoriser la capture du navire, lorsque celui-ci est actuellement dirigé

vers un port non bloqué, quelle que soit la destination ultérieure du navire ou de son chargement.—Fr. Ins. 1912.

84. Article 19 of the Declaration of London ceases to be applicable and no vessel or cargo will be exempt from capture for violation of blockade for the sole reason that they were, at the moment of visit, en route for a nonblockaded port.—Fr. Ins. 1916.

#### **Neutral war vessels.**

32. Vessels of war of neutral powers have not the positive right of entry to a blockaded port. They should, however, as a matter of courtesy, when practicable, be allowed free passage to and from a blockaded port. Permission to visit the blockaded port is subject to any conditions as to length of stay or otherwise that the senior officer of the blockade may deem necessary and expedient.—U. S. Ins. 1917.

82. Vous pourrez accorder à des navires de guerre la permission d'entrer dans un port bloqué et d'en sortir ultérieurement.—Fr. Ins. 1912.

62. The naval commander of the blockading force may permit neutral ships of war to visit a blockaded port and later to leave it. Permission granted to one ship of war, however, does not furnish any ground for another ship of war to claim a like permission.—Ger. O. 1909.

ART. 47. The commander of a blockading force may grant to a foreign warship permission to enter, and subsequently to leave, a blockaded port.—Jap. Reg. 1914.

#### **Permit to enter.**

ART. 7. In circumstances of distress, acknowledged by an authority of the blockading forces, a neutral vessel may enter a place under blockade and subsequently leave it, provided that she has neither discharged nor shipped any cargo there.—D. of L. 1909.

33. In circumstances of urgent distress beyond the possibility of relief by the blockading force, a neutral vessel may be permitted to enter a place under blockade and subsequently to leave it under conditions prescribed by the commanding officer of the blockading force.—U. S. Ins. 1917.

81. Un navire neutre, en cas de détresse constatée par une autorité des forces bloquantes, peut pénétrer dans la localité bloquée et en sortir ultérieurement, à la condition de n'y avoir laissé ni pris aucun chargement.—Fr. Ins. 1912.

ART. 6. The commander of a blockading force may grant to a warship permission to enter, and subsequently to leave, a blockaded port.—D. of L. 1909.

63. A neutral ship in distress has the right, after communication with a commander of the blockading force to enter a blockaded

port, and later to leave it, upon condition, that cargo shall neither be discharged, nor taken on there. The blockading force can instead, however, itself extend the assistance of which the ship is in need.—Ger. O. 1909.

ART. 48. In circumstances of distress, acknowledged by an authority of the blockading forces, a neutral vessel may enter a place under blockade and subsequently leave it, provided that she neither discharges nor ships any cargo there.—Jap Reg. 1914.

#### **Exemption, inward.**

ART. XXX. To vessels coming under one of the following heads, the preceding article shall not apply:

1. When a vessel has permission of the Imperial Government or of the commanding officer of the blockading squadron or man-of-war.
2. When the master of the vessel has ventured to make a blockaded port his destination anticipating termination of the blockade and intending to steer for another port in case the blockade is still in force, or when there are extenuating circumstances and the vessel comes from a very distant place.
3. When it is clear that the master of a vessel bound for a blockaded port has abandoned the idea of reaching that port.
4. When a vessel enters a blockaded area, it having become necessary to put into port from want of provisions, rough weather, or any other unavoidable circumstance, and there being no other port or bay to put in.—Jap. Reg. 1904.

#### **Exemption, outward.**

ART. XXVIII. In any of the following cases the preceding article shall not be applied—

1. When a vessel comes out of the blockade area having a permit from the Imperial Government or from the commanding officer of the squadron or war vessel on duty of blockade.
2. When a vessel which entered the blockaded port during the existence of the blockade, having received no notice of the fact, sails out of the port without any cargo.
3. When a vessel which was in the port at the time of the declaration of the blockade sails out of the port without any cargo.
4. When a vessel which was in the port and was loaded before the declaration of the blockade sails out.—Jap. Reg. 1904.

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## **CONTRABAND**

#### **Supply by neutral government forbidden.**

ART. 6. The supply, in any manner, directly or indirectly, by a neutral power to a belligerent power, of warships, ammunition, or war material of any kind whatever, is forbidden.—XIII, H. C. 1907.

**Shipment, neutral government not bound to prevent.**

ART. 7. A neutral power is not bound to prevent the export or transit, for the use of either belligerant, of arms, ammunition, or, in general, of anything which could be of use to an army or fleet.—XIII, H. C. 1907; art. 7, V, H. C. 1907.

**Destination.**

3. If the documents accompanying a cargo constituting by its nature contraband of war and found on board a ship bound for a country bordering the enemy countries or a country occupied by the enemy do not specify the final and definite destination of the said cargo in a neutral country, or if the importation into the said neutral country of the articles composing the cargo is out of proportion to normal importation, implying an ulterior destination, the said cargo shall be subject to capture unless the interested parties can prove that the destination was really innocent.—Fr. Dec. July 7, 1916.

3. The destination mentioned in article 33 of the rules of naval warfare as elaborated by the London Maritime Conference may be proven by any sufficient evidence, and shall be presumed to exist not only in the case contemplated in article 34, but also if the goods are consigned to an agent of the hostile nation or for him, or to a trader or other person serving the authorities of the hostile nation, or for such trader or person.—Rus. Dec. Sept. 1, 1914.

3. The destination as contemplated in article 33 of the rules on naval war as prepared by the London Maritime Conference shall be presumed to be proven not only in the cases enumerated in article 34 of said rules but also in case the goods are consigned to the agent of or for a hostile nation.—Rus. Dec. 8, 1914.

37. Les articles énumérés ci-dessus sont de contrebande s' il vous apparaît qu' ils sont destinés à l'usage des forces armées ou à des administration de l'État ennemi, à moins, dans ce dernier cas, que les circonstances n'établissent qu'en fait ces articles ne peuvent être utilisés pour la guerre en cours; cette dernière réserve ne s'applique pas à l'or et à l'argent monnayés et en lingots, ni aux papiers représentatifs de la monnaie.—Fr. Ins. 1912.

38. Vous considérerez que les articles de contrebande conditionnelle ont la destination ci-dessus indiquée, si l'envoi est adressé aux autorités ennemis, ou à un commerçant établi en pays ennemi, et lorsqu'il est notoire que ce commerçant fournit au Gouvernement ennemi des objets et matériaux de cette nature. Il en est de même si l'envoi est à destination d'une place fortifiée ennemie ou d'une autre place servant de base d'opérations ou de ravitaillement aux forces armées ennemis.—Fr. Ins. 1912.

39. Si, sans en pouvoirs trouver la preuve complète, vous avez cependant des raisons suffisantes de croire que les articles de contre-

bande conditionnelle, dont le déchargement doit avoir lieu en territoire ennemi ou occupé par l'ennemi, ont la destination hostile ci-dessus indiquée, vous pourrez saisir le navire porteur de cette contrebande.—Fr. Ins. 1912.

40. A défaut des présomptions ci-dessus, la destination est présumée innocente.—Fr. Ins. 1912.

#### **Destination presumption.**

ART. 3. Besides goods the enemy destination of which is clearly shown by documents, those which are carried by vessels bound to or calling at enemy ports or ports of their allies shall be considered as directly destined to enemy territory.

ART. 4. Goods are considered as directly destined to enemy territory—

(a) When they are destined to neutral ports, but consigned to the enemy or their allies, to their agents or recognized intermediaries, or to persons acting under their orders or directions or who may be under their influence.

(b) When they are destined to neutral ports, not comprised in the preceding subclause, but whose final destination to enemy territory may be deduced from the evident deviation from their normal course of the conveying vessel or when it is proved by any other means. The conveyance of goods to a country adjacent to enemy territory, or from which it is notorious that the latter obtains supplies of merchandise which the importing country in question has already imported in quantities exceeding its highest imports for the last three years, shall be considered as a well-founded assurance of the above enemy destination.—Port. Dec. 1916.

30. The captain must regard the hostile destination as indicated without further proof—

(a) When the merchandise is destined to be unloaded in a hostile port or for delivery to a hostile force.

(b) When the ship will touch only at enemy ports or when it will fall in with enemy forces before it will reach the neutral port to which the merchandise is consigned.—Ger. O. 1909.

31. If the ship has articles of absolute contraband on board, the data in the ship's papers concerning her further voyage are to be accorded full credence, unless the ship has plainly deviated from the route designated in her ship's papers, without being able to justify it, or facts appear which establish beyond doubt that the said data in the papers is false.—Ger. O. 1909.

ART. XV. The destination of a vessel is generally considered as also the destination of her cargo.—Jap. Reg. 1904.

ART. 59. Proof of the destination specified in the preceding article is complete in the following cases:

(1) When the goods are documented to be discharged in a port of the enemy or to be delivered to his armed forces.

(2) When the vessel is to call at enemy ports only, or when she is to touch at a port of the enemy or to join his armed forces, before arriving at the neutral port for which the goods are documented.—Jap. Reg. 1914.

ART. 60. The ship's papers are complete proof of the voyage of a vessel transporting absolute contraband, unless the vessel is encountered by a Japanese ship of war, having manifestly deviated from the route which she ought to follow according to the ship's papers and being unable to justify by sufficient reason such deviation.—Jap. Reg. 1914.

#### False destination.

ART. 1, SEC. 3. A neutral vessel whose ship's papers indicate a neutral destination and which in spite of her neutral destination enters an enemy's port, becomes liable to capture and confiscation if she is encountered before having completed her subsequent voyage.—Fr. Dec., Nov. 6, 1914.

2. A neutral vessel which has succeeded in conveying contraband to the enemy with false papers may be seized for the conveyance of such contraband if encountered before completing its return voyage.—Rus. Dec. Sept. 1, 1914.

2. A neutral vessel whose papers show a neutral destination, but which, in spite of the destination appearing from its papers, proceeds to a hostile port, shall be liable to seizure and confiscation if encountered before the completion of its next voyage.—Rus. Dec. Dec. 8, 1914.

47. (2) However, a neutral ship, whose papers show a neutral destination, and which, notwithstanding the destination resulting from such papers, is making an enemy port, will be exposed to capture and confiscation should it be encountered before having completed the current voyage.—Fr. Ins. 1916.

ART. II. A neutral ship, which according to her papers has a neutral destination, and which in spite of the destination indicated on her papers is making an enemy port, will be subject to capture and confiscation if she is encountered before the end of her return journey.—Italy, P. R. 1915.

#### List, destination, continuous voyage.

5. Are considered as contraband of war the objects and materials included in the respective lists approved by decree.

Articles of absolute and conditional contraband are seized when their destination is territory belonging to or occupied by the enemy, or when consigned to the enemy's forces.

Both absolute and conditional contraband on board a ship proceeding to a neutral port is subject to seizure when the name of the consignee does not appear on the manifest, or when the ultimate consignee resides in territory belonging to or occupied by the enemy, or when the goods are consigned to agents of any enemy government, wherever established, or to third persons who are receivers of the goods on account of agents of an enemy government.—Italy, P. R. 1915.

29. Contraband consists only of such articles as are included in the list of contraband, and, in addition, are suspected of being for an enemy destination. Both conditions must be fulfilled. The principles of contraband, therefore, do not apply, if, for example the article in question is included in the list of contraband, but is not suspected of being for an enemy destination, or if articles are found which are not on the list but are destined for the enemy. In the case of contraband it is immaterial whether it is enemy or neutral property, but an article must never be treated as contraband merely because it is enemy property.—Ger. P. C. 1916.

#### Absolute list.

ART. 22. The following articles and materials are, without notice, regarded as contraband, under the name of absolute contraband:

1. Arms of all kinds, including arms for sporting purposes, and their unassembled distinctive parts.
2. Projectiles, charges, and cartridges of all kinds, and their unassembled distinctive parts.
3. Powder and explosives specially adapted for use in war.
4. Gun carriages, caissons, limbers, military wagons, field forges, and their unassembled distinctive parts.
5. Clothing and equipment of a distinctively military character.
6. All kinds of harness of a distinctively military character.
7. Saddle, draft, and pack animals suitable for use in war.
8. Articles of camp equipment and their unassembled distinctive parts.
9. Armor plates.
10. Warships and boats and their unassembled parts specially distinctive as suitable for use only in a vessel of war.
11. Implements and apparatus made exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or of military material, for use on land or sea.

—D. of L. 1909.

24. The articles and materials mentioned in the following paragraphs (a), (b), (c), and (d), actually destined to territory belonging to or occupied by the enemy or to armed forces of the enemy, and the articles and materials mentioned in the following paragraph (e) actually destined for the use of the enemy Government or its armed forces, are, unless exempted by treaty, regarded as contraband.

(a) All kinds of arms, guns, ammunition, explosives, and machines for their manufacture or repair; component parts thereof;

materials or ingredients used in their manufacture; articles necessary or convenient for their use.

(b) All contrivances for or means of transportation on land, in the water, or air, and machines used in their manufacture or repair; component parts thereof; materials or ingredients used in their manufacture; instruments, articles, or animals necessary or convenient for their use.

(c) All means of communication, tools, implements, instruments, equipment, maps, pictures, papers and other articles, machines, or documents necessary or convenient for carrying on hostile operations.

(d) Coin, bullion, currency, evidences of debt; also metal, materials, dies, plates, machinery, or other articles necessary or convenient for their manufacture.

(e) All kinds of fuel, food, foodstuffs, feed, forage, and clothing and articles and materials used in their manufacture.—U. S. Ins. 1917.

29. A moins de stipulation spéciale des traités ou de décision particulière du Gouvernement de la République, vous considérerez de plein droit comme contrebande de guerre les objets et matériaux suivants, compris sous le nom de contrebande absolue, dont la destination hostile apparaîtra comme il est dit plus loin :

1. Les armes de toute nature, y compris, les armes de chasse et les pièces détachées caractérisées;

2. Les projectiles, gargonnes et cartouches de toute nature et les pièces détachées caractérisées;

3. Les poudres et explosifs spécialement affectés à la guerre;

4. Les affûts, caissons, avant-trains, fourgons, forges de campagne et les pièces détachées caractérisées;

5. Les effets d'habillement et d'équipement militaires caractérisés;

6. Les harnachements militaires caractérisés de toute nature;

7. Les animaux de selle, de trait et de bât utilisables pour la guerre;

8. Le matériel de campement et les pièces détachées caractérisées;

9. Les plaques de blindage;

10. Les bâtiments et embarcations de guerre et les pièces détachées spécialement caractérisées;

11. Les instruments et appareils exclusivement faits pour la fabrication des munitions de guerre, pour la fabrication et la réparation des armes et du matériel militaire terrestre ou naval.

—Fr. Ins. 1912.

21. The following will be regarded as contraband of war, without any official declaration, under the designation of absolute contraband articles and materials:

1. Arms of every kind, including hunting weapons and all recognized parts belonging to them.

2. Projectiles, charges, and cartridges of all kinds, as well as their recognized parts belonging to them.

3. Powder and explosives which are especially intended for war use.

4. Gun mounts, ammunition, carriages, limbers, supply wagons, field forges, and their recognized parts.
5. Articles of clothing and equipment distinctly military.
6. Harness of all kinds distinctly military.
7. Mounts, draft and pack animals capable of use in war.
8. Camping equipment and its recognized parts.
9. Armor plate.
10. War ships and other war craft, as well as such parts as from their special nature can be used only on board a vessel of war.
11. Tools and equipment which have been constructed exclusively for the preparation of war material or for the manufacture and repair of arms and land or sea material of war.

—Ger. O. 1909.

**ART. VI.** Under the denomination contraband of war, the following articles are included: Cannons, machine guns, mortars, guns, all kinds of arms and firearms, bullets, bombs, grenades, fuses, cartridges, matches, powder, sulphur, saltpeter, dynamite and every kind of explosive, articles of equipment like uniforms, straps, saddles and artillery and cavalry harness, engines for ships and their accessories, shafts, screws, boilers and other articles used in the construction, repair, and arming of war ships, and in general all war-like instruments, utensils, tools, and other articles, and whatever may hereafter be determined to be contraband.—Spain, Dec. 1898.

**ART. XIII.** The following goods are contraband of war when they are destined to the enemy's territory or to the enemy's army or navy: Arms, ammunition, explosives, and materials (including also lead, saltpeter, sulphur, etc.), and machines for manufacturing them, cement, uniforms, and equipment for army and navy, armor plates, materials for building ships and their equipments, and all articles to be used solely for hostile purposes.—Jap. Reg. 1904.

**ART. I.** Goods mentioned below are absolute contraband of war: (Here follows a list of 13 classes of articles, identical with those in art. 22 of the Declaration of London, with the addition of "7. Engineering tools and materials of a distinctively military character," and "12. Balloons and flying machines and their distinctive component parts, together with accessories and articles recognizable as intended for use in connection with balloons and flying machines," which appeared in the Declaration of London as No. 8 in the list of conditional contraband, art. 24.)—Jap. Dec. Aug. 23, 1914.

#### **Transportation of contraband of war.**

**ART. 55.** When there are no special provisions, materials and articles mentioned below are regarded as absolute contraband of war:

- (1) Arms of all kinds, including arms for sporting purposes, and their unassembled distinctive parts.
- (2) Projectiles, charges, and cartridges of all kinds, and their unassembled distinctive parts.
- (3) Powder and explosives specially adapted for use in war.

(4) Gun carriages, caissons, limbers, military wagons, field forges, and their unassembled distinctive parts.

(5) Clothing and equipment of a distinctively military character.

(6) All kinds of harness of a distinctively military character.

(7) Engineering tools and materials of a distinctively military character.

(8) Saddle, draught, and pack animals suitable for use in war.

(9) Articles of camp equipment and their unassembled distinctive parts.

(10) Armor plates.

(11) War ships and boats and their unassembled parts specially distinctive as suitable for use only in a vessel of war.

(12) Balloons and flying machines and their unassembled distinctive parts as also their accessories, articles, and materials distinctive as intended for use in connection with balloons or flying machines.

(13) Implements and apparatus made exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or of military material for use on land or sea.

—Jap. Reg. 1914.

#### Absolute, notification.

ART. 23. Articles and materials which are exclusively used for war may be added to the list of absolute contraband by means of a notified declaration. The notification is addressed to the governments of other powers or to their representatives accredited to the power which makes the declaration. A notification made after the opening of hostilities is addressed only to neutral powers. —D. of L. 1909.

23. In the absence of notice of change which the Government of the United States may make at the outbreak of or during war, the following classification and enumeration of contraband will govern commanders of ships of war.—U. S. Ins. 1917.

31. Le cas échéant, vous recevrez une liste complémentaire d'objets et de matériaux exclusivement employés à la guerre, que le Gouvernement jugerait utile, au cours des hostilités, d'ajouter aux objets de contrebande absolue énumérés ci-dessus.—Fr. Ins. 1912.

2. Notices shall be published from time to time in the Journal Officiel regarding any new additions or amendments to the list of articles of contraband specified in the present decree.—Fr. Ins. 1914.

22. Absolute contraband will include, further, those articles and materials which shall be expressly declared as absolute contraband by the German Empire.—Ger. O. 1909.

13. Objects acknowledged as contraband of war are announced for general information in a special declaration. Exempt from confiscation are those of these objects which constitute, properly speaking, the armament and provisioning of vessels of neutral nationality.—Rus. Reg. 1895.

8. The contraband of war are the articles which are mentioned in the regulations governing the contraband of war. Regulations governing the contraband of war shall be promulgated separately.—China, Reg. 1917.

**Absolute, destination.**

ART. 58. Articles and materials mentioned in article 55 are liable to capture if they are deemed to be destined to the territory belonging to or occupied by the enemy, or to the armed forces of the enemy. It is immaterial whether the carriage of the goods is direct or entails either transshipment or transport over land.—Jap. Reg. 1914.

ART. 31. Proof of the destination specified in article 30 is complete in the following cases: (1) When the goods are documented to be discharged in a port of the enemy, or to be delivered to his armed forces. (2) When the vessel is to call at enemy ports only, or when she is to touch at a port of the enemy or to join his armed forces, before arriving at the neutral port for which the goods are documented.—D. of L. 1909.

ART. 32. The ship's papers are complete proof of the voyage of a vessel transporting absolute contraband, unless the vessel is encountered having manifestly deviated from the route which she ought to follow according to the ship's papers and being unable to justify by sufficient reason such deviation.—D. of L. 1909.

72. A destination to territory belonging to or occupied by the enemy or to the armed forces of the enemy is presumed to exist if the contraband is consigned "to order," "to order or assigns," or with an unnamed consignee, but in any case going to territory belonging to or occupied by the enemy, or to neutral territory in the vicinity thereof.—U. S. Ins. 1917.

(a) The hostile destination required for the condemnation of contraband articles shall be presumed to exist until the contrary is shown, if the goods are consigned to or for an enemy authority, or an agent of the enemy State, or to or for a person in territory belonging to or occupied by the enemy, or to or for a person who, during the present hostilities, has forwarded contraband goods to an enemy authority, or an agent of the enemy State, or to or for a person in territory belonging to or occupied by the enemy, or if the goods are consigned "to order," or if the ship's papers do not show who is the real consignee of the goods.—Br. O. in C. July 7, 1916.

33. La destination ennemie de la contrebande absolue est considérée comme définitivement prouvée dans les cas suivants:

1. Lorsque la marchandise est documentée pour être débarquée dans un port de l'ennemi ou pour être livrée à ses forces armées;

2. Lorsque, bien que la marchandise soit documentée pour un port neutre, le navire ne doit aborder qu'à des ports ennemis, ou lorsqu'il doit toucher à un port de l'ennemi, ou rejoindre ses forces armées avant d'arriver au port neutre pour lequel la marchandise est documentée.—Fr. Ins. 1912.

33. The enemy destination of absolute contraband is presumed, in the absence of proof to the contrary in the following cases:

1. When the merchandise is consigned in a neutral port to or for an agent of the enemy state; the same is true if the merchandise is consigned to or for a person who, during the present war, has expedited articles of contraband to territory, enemy or occupied by the enemy.

2. When merchandise, loaded on a vessel destined to a neutral port of Europe, is consigned to order, or when the papers on board do not indicate the consignee or when they indicate a consignee in a territory, enemy or occupied by the enemy.—Fr. Ins. 1916.

34. Les papiers de bord font preuve complète de l'itinéraire du navire transportant de la contrebande absolue, à moins que le navire ne soit rencontré ayant manifestement dévié de la route qu'il devrait suivre d'après ses papiers de bord et sans pouvoir justifier d'une cause suffisante de cette déviation.—Fr. Ins. 1912.

ART. 2. The goods mentioned in the preceding article are considered contraband of war when they are destined either directly or indirectly to enemy territory or their allies' territory.—Port. Dec. 1916.

#### Absolute, continuous voyage.

ART. 30. Absolute contraband is liable to capture if it is shown to be destined to territory belonging to or occupied by the enemy, or to the armed forces of the enemy. It is immaterial whether the carriage of the goods is direct or entails either transshipment or transport over land.—D. of L. 1909.

69. Contraband, in paragraph 24 (a), (b), (c), and (d), is liable to capture if its actual destination is the territory belonging to or occupied by the enemy, or the armed forces of the enemy. It is immaterial whether the carriage of the contraband to such actual destination be direct in the original vessel or involve transshipment or transport overland.—U. S. Ins. 1917.

32. Les articles énumérés ci-dessus sont de contrebande, s'il vous apparaît qu'ils sont destinés au territoire de l'ennemi ou à un territoire occupé par lui ou à ses forces armées. Peu importe que le navire transporteur soit lui-même à destination d'un port neutre.—Fr. Ins. 1912.

ART. 2. Where it is shown to the satisfaction of one of His Majesty's principal secretaries of state that the enemy government is drawing supplies for its armed forces from or through a neutral country, he may direct that in respect of ships bound for a port in that country article 35 of the said declaration shall not apply. Such direction shall be notified in the London Gazette and shall operate until the same is withdrawn. So long as such direction is in force, a vessel which is carrying conditional contraband to a port in that country shall not be immune from capture.—Br. O. in C. Oct. 29, 1914.

ART. 1, SEC. 6. When it shall be proved to the Government of the Republic that an enemy's government derives from a neutral country, or by transit through a neutral country, provisions for its armed forces, necessary measures shall be taken to the end that article 35 of the Declaration of London shall not apply to ships bound for such neutral country. Such measures shall be published in the Journal Officiel and shall remain in force until rescinded; during which period ships transporting conditional contraband to a port of said neutral country shall not be exempt from capture.—Fr. Dec. Nov. 6, 1914.

**Conditional, list.**

ART. 24. The following articles and materials susceptible of use in war as well as for purposes of peace are, without notice, regarded as contraband of war, under the name of conditional contraband:

- (1) Food.
- (2) Foragé and grain suitable for feeding animals.
- (3) Clothing and fabrics for clothing, and boots and shoes suitable for military use.
- (4) Gold and silver in coin or bullion; paper money.
- (5) Vehicles of all kinds available for use in war, and their unassembled parts.
- (6) Vessels, craft, and boats of all kinds, floating docks, parts of docks, as also their unassembled parts.
- (7) Fixed railway material and rolling stock and material for telegraphs, radio telegraphs, and telephones.
- (8) Balloons and flying machines and their unassembled distinctive parts, as also their accessories, articles and materials distinctive as intended for use in connection with balloons or flying machines.
- (9) Fuel; lubricants.
- (10) Powder and explosives which are not specially adapted for use in war.
- (11) Barbed wire, as also the implements for placing and cutting the same.
- (12) Horseshoes and horseshoeing materials.
- (13) Harness and saddlery material.
- (14) Binocular glasses, telescopes, chronometers, and all kinds of nautical instruments.

—D. of L. 1909.

35. Vous considérerez de plein droit comme contrebande de guerre les objets et matériaux suivants, qui, susceptibles de servir aux usages de la guerre comme à des usages pacifiques, sont compris sous le nom de contrebande conditionnelle, et dont la destination hostile apparaîtra comme il est dit plus loin, savoir:

1. Les vivres;
2. Les fourrages et les graines propres à la nourriture des animaux;
3. Les vêtements et les tissus d'habillement, les chaussures propres à des usages militaires;
4. L'or et l'argent monnayé et en lingots, les papiers représentatifs de la monnaie;

5. Les véhicules de toute nature pouvant servir à la guerre, ainsi que les pièces détachées;

6. Les navires, bateaux et embarcations de tout genre, les docks flottants, parties de bassins, ainsi que les pièces détachées;

7. Le matériel fixe ou roulant des chemins de fer, le matériel des télégraphes, radiotélégraphes ou téléphones;

8. Les aérostats et les appareils d'aviation, les pièces détachées caractérisées ainsi que les accessoires, objets et matériaux caractérisés comme devant servir à l'aérostation ou à l'aviation;

9. Les combustibles et matières lubrifiantes;

10. Les poudres et les explosifs qui ne sont pas spécialement affectés à la guerre;

11. Les fils barbelés, ainsi que les instruments servant à les fixer ou à les couper;

12. Les fers à cheval et le matériel de maréchalerie;

13. Les objets de harnachement et de sellerie;

14. Les jumelles, télescopes, chronomètres et les divers instruments nautiques.—Fr. Ins. 1912.

23. As contraband of war, without necessity for being so declared, will be regarded the following which are capable of use for war as well as for peace purposes, under the designation of articles and materials conditionally contraband:

1. Food.

2. Forage and grain suitable for animals feed.

3. Articles of clothing, cloth, and footwear suitable for military purposes.

4. Gold and silver, minted or in bards, and paper money as well.

5. Vehicles of any kind suitable for use in war and their parts.

6. Ships, boats, and vessels of any kind, floating docks and equipment for dry docks and their parts.

7. Fixed or rolling railway material, telegraph, radio, and telephone material.

8. Airships and flying machines, their recognized constituent parts, as well as accessories, articles, and material which can be recognized as of use for aeronautic and aviation purposes.

9. Fuel and lubricants.

10. Powder and explosives which are not expressly intended for war purposes.

11. Barbed wire and tools for fixing it in place and cutting it.

12. Horseshoes and farriers equipment.

13. Harness and saddles.

14. Binoculars, telescopes, chronometers, and all kinds of nautical instruments.

As " food " shall be considered all material, solid and liquid, serving as food for human beings. The expression " paper money " includes banknotes, but not bills of exchange, nor checks. Boilers and machinery come under No. 6 of the list. All " fixed railway material " includes among other things, rails, ties, turntables, bridge parts.—Ger. O. 1909.

ART. XIV. The following goods are contraband of war in case they are destined to the enemy's army or navy, or in case they are destined to the enemy's territory and from the landing place it can be inferred that they are intended for military purposes: Provisions and drinks, clothing and materials for clothing, horses, harnesses, fodder, wheeled vehicles, coal, and other kinds of fuel, timber, currency, gold and silver bullion, materials for telegraph, telephone, and railroad.—Jap. Reg. 1904.

ART. 56. Where there are no special provisions, materials and articles mentioned below are regarded as conditional contraband of war:

- (1) Food.
- (2) Forage and grain suitable for feeding animals.
- (3) Clothing and fabrics for clothing, boots and shoes, suitable for military use.
- (4) Gold and silver in coin or bullion; paper money.
- (5) Vehicles of all kinds available for use in war, and their unassembled parts.
- (6) Vessels, craft, and boats of all kinds, floating docks, parts of docks, as also their unassembled parts.
- (7) Fixed railway material and rolling stock, and material for telegraphs, radio telegraphs, and telephones.
- (8) Fuel; lubricants.
- (9) Powder and explosives which are not specially adapted for use in war.
- (10) Barbed wire as also the implements for placing and cutting the same.
- (11) Horseshoes and horseshoeing materials.
- (12) Harness and saddlery material.
- (13) Binocular glasses, telescopes, chronometers, and all kinds of nautical instruments.

—Jap. Reg. 1914.

#### Conditional, notification.

ART. 25. Articles and materials susceptible of use in war as well as for purposes of peace, and other than those enumerated in articles 22 and 24, may be added to the list of conditional contraband by means of a declaration, which must be notified in the manner provided for in the second paragraph of article 23.—D. of L. 1909.

36. Les cas échéant, vous recevrez une liste complémentaire d'objets et matériaux susceptibles de servir aux usages de la guerre comme aux usages pacifiques, que le Gouvernement jugerait utile, au cours des hostilités, d'ajouter aux objets de contrebande conditionnelle énumérés ci-dessus.—Fr. Ins. 1912.

#### Conditional, destination.

ART. 33. Conditional contraband is liable to capture if it is shown that it is destined for the use of the armed forces or of a government department of the enemy State, unless in this latter case the circumstances show that the articles can not in fact be used for the

purposes of the war in progress. This latter exception does not apply to a consignment coming under article 24 (4).—D. of L. 1909.

ART. 34. There is presumption of the destination referred to in article 33 if the consignment is addressed to enemy authorities, or to a merchant, established in the enemy country, and when it is well known that this merchant supplies articles and material of this kind to the enemy. The presumption is the same if the consignment is destined to a fortified place of the enemy, or to another place serving as a base for the armed forces of the enemy; this presumption, however, does not apply to the merchant vessel herself bound for one of these places and of which vessel it is sought to show the contraband character. Failing the above presumptions, the destination is presumed innocent. The presumptions laid down in this article admit proof to the contrary.—D. of L. 1909.

71. A destination for the use of the enemy government or its armed forces is presumed to exist if the contraband is consigned—

(a) To enemy authorities.

(b) To a port of equipment or supply of the armed forces of the enemy or other place serving as a base for such armed forces.

(c) To a contractor or agent in enemy territory who, by common knowledge, supplies articles of the kind in question to the enemy authorities.—U. S. Ins. 1917.

ART. 1, SEC. 4. The destination referred to in article 33 of the Declaration of London apart from the presumption covered by article 34 is presumed to exist if the merchandise is consigned to or for an agent in the enemy country.—Fr. Dec. Nov. 6, 1914.

#### Conditional, destination of vessel.

43. Les papiers de bord font preuve complète de l'itinéraire du navire ainsi que lieu de déchargement des marchandises, à moins que ce navire ne soit rencontré ayant manifestement dévié de la route qu'il devait suivre d'après ses papiers de bord et sans pouvoir justifier d'une cause suffisante de cette déviation.—Fr. Ins. 1912.

32. Articles of conditional contraband are subject to seizure as far as the conditions of No. 35 are fulfilled, when it is clear that they are destined for the use of the forces or the supply depots of the enemy State, unless in the latter case, according to the evidence of circumstances, these articles can not actually be used for the war in progress. Gold and silver in coin or in bullion, as well as paper money, is in consequence always to be regarded as capable of use in the war. Administrative authorities which are not directly subject to the central government (as, for example, city and local governments) are not to be considered as administrative authorities of the State.—Ger. O. 1909.

33. The captain must, in the absence of circumstances to the contrary, regard the hostile destination as evident—

(a) When the consignment is addressed to an enemy authority, or  
(b) to a dealer situated in the enemy country of whom it is known that he is a supplier to the forces or to the administrative authorities of the enemy State of articles of questionable character or source; or (c) when the consignment is addressed to a fortified place of the enemy; or (d) to another place which serves the enemy forces as a base of operations or supplies.

Merchant vessels themselves are, however, not on that account to be regarded as destined for the enemy forces, etc., because they are proceeding to one of the places referred to under (c) and (d); on the contrary there must be still other circumstances in order to justify the assumption of a hostile destination, according to 32.—Ger. O. 1909.

ART. 33. In the absence of conditions to the contrary, the hostile destination referred to in article 32 is to be presumed when (a) the goods are consigned to an enemy authority or the agent of such or to a dealer shown to have supplied articles of the kind in question or products thereof to the armed forces or the administrative authorities of the enemy state; (b) the goods are consigned to order or the ship's papers do not show who is the consignee or the goods are consigned to a person in territory belonging to or occupied by the enemy; (c) the goods are destined for an armed place of the enemy or a place serving as a base of operations of supplies to the armed forces of the enemy. Merchant vessels themselves are not to be considered as destined for the armed forces or the administrative authorities of the enemy solely for the reason that they are found en route to one of the places referred to under letter (c).—Ger. O. Amendment, Apr. 18, 1915.

34. When under the conditions of 33 there is apparently no clear case, the captain will assume a hostile destination in the sense of No. 32 only when there is a well-grounded prospect to prove its existence.—Ger. O. 1909.

36. When a ship has conditional contraband on board, the data in the ship's papers concerning her further movements and the ports of discharge of her merchandise are to be accepted without reserve, unless it is clear that the ship has deviated from the course laid down in the ship's papers, without sufficient justification, or facts are evident which establish beyond doubt that the data mentioned by the papers are false.—Ger. O. 1909.

27. When the ship's papers contain no data concerning the further movements of the ship, or leave it optional with her to touch at a hostile port, the captain may assume that she is on the way to a hostile port. When the ship's papers contain no data concerning

the ports of discharge of articles of conditional contraband, or leave it optional with the ship to discharge these articles in an enemy port, the captain may assume—so far as the ship may or will touch at a hostile port—the articles in question are to be discharged at that port.—Ger. O. 1909.

ART. III. The destination indicated in article 33 of the Declaration of London will be presumed to be the real one (in addition to the presumptions provided for in art. 34) if the cargo is consigned to an agent of an enemy state or to order of an agent of an enemy state.—Italy, Dec., June 3, 1915.

ART. 61. Articles and materials of article 56 are liable to capture if it is deemed that they are destined for the use of the armed forces or of a government department of the enemy state, unless in this latter case the circumstances show that the articles can not in fact be used for the purpose of the war in progress. This latter exception does not apply to a consignment coming under article 56 (4).—Jap. Reg. 1914.

ART. 62. In one of the following cases, the materials and articles enumerated in article 56 are presumed to have the destination referred to in the preceding article—

- (1) When the consignment is addressed to enemy authorities.
- (2) When the consignment is addressed to a merchant, established in the enemy country, and when it is well known that this merchant supplies articles and material of this kind to the enemy.
- (3) When the consignment is addressed to an agent of the enemy government or to a merchant or others who are under control of the enemy government.
- (4) When the consignment is addressed to a fortified place of the enemy, or to another place serving as a base of operation or supply depot for the armed forces of the enemy.—Jap. Reg. 1914.

#### Conditional, continuous voyage.

5. In modification of the provisions of article 35 of the rules of the London Maritime Conference, conditional contraband shall be liable to seizure, provided the destination mentioned in article 33 is proven, no matter what port the vessel may be bound for and no matter what port the cargo is intended to be discharged in.—Rus. Dec. Sept. 1, 1914.

5. If the Russian Government becomes convinced that a hostile government is obtaining supplies for its armed forces from or through any neutral country, it shall be the duty of the marine department, with the consent of the Minister of Foreign Affairs, to take the necessary measures in order that article 35 may not be applicable to vessels sailing to the ports of such country. The order to this effect shall be published in the Collection of Laws and Measures

of the Government, and shall remain in force until repealed. While such order remains in force a vessel conveying conditional contraband to the ports of the said country shall not be exempt from seizure.—Rus. Dec. Dec. 8, 1914.

ART. 1. Notwithstanding the provisions of article 35 of the said declaration, conditional contraband shall be liable to capture on board a vessel bound for a neutral port if the goods are consigned "to order," or if the ship's papers do not show who is the consignee of the goods or if they show a consignee of the goods in territory belonging to or occupied by the enemy. In the cases covered by the preceding paragraph, it shall lie upon the owners of the goods to prove that their destination was innocent.—Br. O. in C., Oct. 29, 1914.

ART. 5. Notwithstanding the provisions of article 35 of the said declaration, conditional contraband, if shown to have the destination referred to in article 32, is liable to capture, to whatever port the vessel is bound and at whatever port the cargo is to be discharged.—Br. O. in C., Aug. 20, 1914.

ART. 1, SEC. 5. Notwithstanding the provisions of article 35 of the Declaration of London, conditional contraband is liable to capture if found on board a ship bound for a neutral port, when the merchandise is consigned to order or when the ship's papers do not specify a consignee in the territory belonging to or occupied by the enemy. In the above-mentioned case it is incumbent upon the owners of the merchandise to prove that the destination was innocent.—Fr. Dec. Nov. 6, 1914.

4. Contrary to article 35 of the rules on naval war, as prepared by the London Naval Conference, articles of conditional contraband shall be liable to seizure on a vessel proceeding to a neutral port if the goods are sent "to order" or if the ship's papers do not indicate the consignee of the goods or indicate a consignee in the hostile territory or a territory occupied by the enemy. In the cases referred to in the present article the burden of proof that the destination of the goods was lawful shall rest upon the owners thereof.—Rus. Dec., Dec. 8, 1914.

1. The provisions of the Declaration of London, Order in Council, No. 2, 1914, shall not be deemed to limit or to have limited in any way the right of His Majesty, in accordance with the law of nations, to capture goods upon the grounds that they were conditional contraband, nor to affect or to have affected the liability of conditional contraband to capture, whether the carriage of the goods to their destination be direct or entail transshipment or a subsequent transport by land.—Br. O. in C., Mar. 30, 1916.

The principle of continuous voyage or ultimate destination shall be applicable, both in cases of contraband and a blockade.—Br. O. in C., July 7, 1916.

29. Articles of absolute contraband are subject to seizure when it is evident that they are destined for the hostile country or for a country occupied by the hostile forces. It makes no difference whether the delivery of these goods be accomplished directly, or by transshipment or forwarding by land.—Ger. O. 1909.

35. Articles of conditional contraband are subject to seizure only on board a ship which is on the way to the enemy country or a place held by the enemy or to the enemy forces and when these articles are not to be discharged in an intermediate neutral port, i. e., a port at which the ship must call before reaching any final destination.—Ger. O. 1909.

ART. 35. Articles of conditional contraband are liable to seizure only on a vessel en route to territory belonging to or occupied by the enemy or to the armed forces of the enemy, and such vessel is not intended to unload these articles in an intermediate neutral port—that is to say, in a port at which the vessel is to call previous to reaching the ultimate destination designated. This paragraph shall not apply if the conditions provided in article 33, letter B, are present or if the vessel is bound for a neutral country with regard to which it is shown that the enemy government draws articles of the kind in question from that country.—Ger. O. Amendment, Apr. 18, 1915.

38. If the hostile territory has no seacoast, the provisions of No. 35 do not apply, and it is sufficient in such case for the conditions of 32 to be fulfilled, to justify the seizure of articles of conditional contraband.—Ger. O. 1909.

ART. IV. In spite of the dispositions of article 35 of the Declaration of London conditional contraband will be subject to capture on board a vessel proceeding to a neutral port if the ship's manifests do not indicate the name of the consignee, or if they show that the consignee resides in territory belonging to or occupied by the enemy.—Italy, Dec. 1915.

ART. V. In the cases indicated in the preceding Article IV the burden of proving the innocent destination of the goods rests with their owner.—Italy, Dec. 1915.

ART. VI. When the King's Government learns that an enemy government is supplying its armed forces by means of or across a neutral country, the Ministers of Foreign Affairs and Marine may take concerted action to exclude from the operation of article 35 of the Declaration of London all vessels proceeding to ports in such countries. Decisions of this nature will be published in the Official Gazette, and will be enforced until superseded by another decision of the same nature. For the whole period during which such decisions are in force, vessels carrying conditional contraband to ports of such countries will be liable to capture.—Italy, Dec. 1915.

APPENDIX II. By the designation "to the enemy" is meant transportation to his fleet, to one of his ports, or even to a neutral port if the latter, according to obvious and indisputable proofs, merely serves as an intermediate station to the enemy and as the final goal of all transportations.—Rus. Ins. 1900.

ART. XVI. In case a vessel is bound for a place not in the enemy's territory, but if her intermediate port of call is an enemy's port, or in case there is reason to believe the vessel is to meet enemy's ships during the voyage, the destination of such vessels shall be considered as enemy's territory.—Jap. Reg. 1904.

ART. XVII. If a vessel bound for a port not in the enemy's territory carries a cargo which there is reason to believe is to be transported to the enemy's territory, such voyage shall be considered as continuous and the ship as destined to the enemy's territory from the first, whether she arrive at the port and land her cargo or not.—Jap. Reg. 1904.

ART. 63. Articles and material coming under article 56 are liable to capture, no matter what the destination of the ship is and what the port of discharge of the articles and material is, if it is considered that the articles and material are consigned as specified in article 61. The ship's papers are conclusive proof of the voyage of the vessel as also of the port of discharge of the goods. However, this rule does not apply where there is sufficient proof that the goods have the destination of article 61.—Jap. Reg. 1914.

ART. 35. Conditional contraband is not liable to capture, except when on board a vessel bound for territory belonging to or occupied by the enemy, or for the armed forces of the enemy, and when it is not to be discharged at an intervening neutral port. The ship's papers are conclusive proof of the voyage of the vessel as also of the port of discharge of the goods, unless the vessel is encountered having manifestly deviated from the route which she ought to follow according to the ship's papers and being unable to justify by sufficient reason such deviation.—D. of L. 1909.

ART. 36. Notwithstanding the provisions of article 35, if the territory of the enemy has no seaboard, conditional contraband is liable to capture if it is shown that it has the destination referred to in article 33.—D. of L. 1909.

70. Contraband, in paragraph 24 (e), is liable to capture if it is actually destined for the use of the enemy government or its armed forces. It is immaterial whether the carriage of contraband be direct in the original vessel, or involve transshipment or transport overland.—U. S. Ins. 1917.

41. Les articles dits "de contrebande conditionnelle" n'ont le caractère de contrebande que si le navire transporteur fait route vers le

territoire de l'ennemi ou vers un territoire occupé par lui ou vers ses forces armées, et s'il ne doit pas les décharger dans un port intermédiaire neutre.—Fr. Ins. 1912.

41. Articles so-called of conditional contraband have the character of contraband only if the ship transporting them is making way to the territory of the enemy or to a territory occupied by him, or to his armed forces.—Fr. Ins. 1916.

41(2). Conditional contraband is, however, subject to capture if the ship being for destination of a neutral port, the merchandise is consigned to order or if the ship's papers do not show the consignee, or also if they show a consignee in an enemy country or occupied by the enemy. In cases thus considered, it is for the owners of the merchandise to prove the destination is innocent.—Fr. Ins. 1916.

41 (3). When, in conformity with Article VI of the decree of November 6, 1914, the Government will have decided to suspend for a neutral country the application of article 35 of the Declaration of London, paragraph 41 of the present instruction will cease to be applied to ships going to the ports of the said country, and the merchandise on board these ships will not be exempt from capture. This measure will be published in the Journal Officiel, and will remain applicable until it shall have been revoked.—Fr. Ins. 1916.

42. Toutefois, si le territoire de l'ennemi n'a pas de frontière maritime, les articles ci-dessus ont le caractère de contrebande par le seul fait de leur propre destination hostile, encore que le navire transporteur ait lui-même une destination neutre.—Fr. Ins. 1912.

#### **Liability.**

ART. 39. Contraband is liable to condemnation.—D. of L. 1909.

ART. 71. Contraband is liable to condemnation.—Jap. Reg. 1914.

#### **Liability of vessel.**

ART. 40. The confiscation of the vessel carrying contraband is allowed if the contraband forms, either by value, by weight, by volume, or by freight, more than half the cargo—D. of L. 1909.

A vessel carrying contraband shall be liable to capture and condemnation if the contraband, reckoned either by value, weight, volume, or freight, forms more than half the cargo.—Br. O. in C., July 7, 1916.

49. Vous capturerez le navire transportant de la contrebande si cette contrebande forme, soit par sa valeur, soit par son poids, soit par son volume, soit par son fret, plus de la moitié de la cargaison.—Fr. Ins. 1912.

2. Whenever contraband merchandise seized on a ship forms by its value, its weight, its volume, or its burden more than one-half of the cargo, the ship and its entire cargo are subject to confiscation.—Fr. Dec. July 7, 1916.

50. Vous vous bornerez à saisir le navire transportant de la contrebande si cette contrebande est en proportion inférieure à celle ci-dessus indiquée.—Fr. Ins. 1912.

ART. 5. Besides any other goods which shall be considered as such, the following shall always be considered as legitimate prizes:

(a) Ships carrying contraband of war the value, weight, size, or freight of which amounts to more than half the value, weight, size, or freight of her cargo.

(b) Ships on their return voyage after having carried contraband in the manner described in the preceding subclause.

(c) Ships not included in subclauses (a) and (b), habitually employed in contraband traffic or other traffic which may be qualified as that of rendering assistance to the enemy.

(d) Ships of enemy ownership which by their build, armament, or internal disposition and fittings may be converted into ships of war.—Port. Dec. 1916.

41. Ships which are themselves contraband are subject to confiscation. A ship brought in because of carrying contraband is subject to capture when the contraband, in value, weight, volume or freight charges, constitutes more than half the cargo.—Ger. O. 1909.

42. In the cargo, subject to confiscation are: (a) Articles which may be seized as absolute or conditional contraband. (b) Merchandise belonging to their owner. The rest of the cargo of a neutral ship, inclusive of any enemy goods, is not confiscable.—Ger. O. 1909.

#### ART. 10. Vessel liable to capture:

(5) If the cargo is composed in whole or more than two-thirds of contraband of war. In the case of the illicit part of the cargo being less than two-thirds only, the articles which are contraband of war will be confiscated, and to unload them the ship will be conducted to the nearest and most convenient Spanish port. It must be understood that goods directly and immediately affecting the war are contraband only when destined for the enemy's ports, for when they are consigned to a neutral port these goods are munitions of war, but not contraband. But if a vessel is dispatched for a neutral port in proper form, but makes for a port of the enemy, then, if found near to one of these ports or sailing in quite a different direction than the proper one shown in her papers, she shall be captured if the captain can not prove that force majeure drove him from his proper course.—Spain, Ins. 1898.

PAR. 1. Merchant vessels of neutral nationality which transport war contraband, are confiscated, in case the latter either by value, weight, or volume or freight, amounts to more than a half of the whole cargo.—Rus. Dec., Nov. 8, 1916.

**ART. XLIV.** A vessel which has taken in contraband goods, using deceitful means, and all the goods on board belonging to the owner of such vessel, shall be forfeited.—Jap. Reg. 1904.

43. Under any of the following circumstances, the vessel carrying contraband of war is liable to condemnation:

- (a) When the vessel and the contraband belong to the same person.
- (b) When the weight and dimensions of the contraband of war constitute two-thirds of all the cargo on board the vessel.
- (c) When the vessel smuggles contraband of war by fraud.

Under any of the above circumstances all the goods belonging to the owner of the vessel are also liable to condemnation.—China, Reg. 1917.

**ART. 66.** Excepting cases of articles 67 and 70, vessels carrying contraband of war are liable to capture, no matter to what nationality they belong.—Jap. Reg. 1914.

**ART. 72.** The confiscation of the vessel carrying contraband is allowed if the contraband forms, either by value, by weight, by volume, or by freight, more than half the cargo.—Jap. Reg. 1914.

#### Radius of liability.

**ART. 37.** A vessel carrying articles liable to capture as absolute or conditional contraband may be captured on the high seas or in the territorial waters of the belligerents throughout the whole course of her voyage, even if she has the intention to touch at a port of call before reaching the hostile destination.—D. of L. 1909.

48. Le navire transportant des articles saisissables comme contrebande peut être saisi ou capturé par vous pendant tout le cours de son voyage, même s'il a l'intention de toucher à un port d'escale avant d'atteindre la destination ennemie.—Fr. Ins. 1912.

39. When a ship carries articles which are subject to seizure as absolute or conditional contraband, she is liable to capture on the high seas or in the waters of the belligerents throughout the duration of her entire voyage, even when she has the intention to call at an intermediate port before reaching the hostile destination.—Ger. O. 1909.

**ART. 64.** A vessel carrying articles liable to capture as absolute or conditional contraband may be captured on the high seas or in the territorial waters of the belligerents throughout the whole course of her voyage, even if she has the intention to touch at a port of call before reaching the hostile destination.—Jap. Reg. 1914.

6. A ship carrying absolute or conditional contraband may be captured on the high sea or in belligerent territorial waters at any time during its voyage. If, however, contraband articles form a small part of the cargo, naval commanding officers may at their discretion take over, and, if circumstances require it, destroy the

contraband goods, and after noting the fact in the ship's log may allow the vessel to continue her voyage.—Italy, P. R. 1915.

#### Previous offense.

ART. 38. A capture is not to be made on the ground of a carriage of contraband previously accomplished and at the time completed.—D. of L. 1909.

47. Vous ne saisissez pas un navire en raison d'un transport de contrebande qu'il aurait antérieurement effectué et actuellement achevé.—Fr. Ins. 1912.

40. Seizure can not be made on the ground of a previous carrying of contraband which has already been fully completed.—Ger. O. 1909.

ART. 40. A vessel can not be captured on the ground of an already completed voyage carrying contraband. If, however, the vessel carried contraband to the enemy contrary to the indications of the ship's papers, it shall be liable to capture and condemnation until the end of the war.—Ger. O. Amendment Apr. 18, 1915.

ART. 65. A capture is not to be made on the ground of a carriage of contraband previously accomplished and at the time completed.—Jap. Reg. 1914.

ART. 1, SEC. I. A neutral vessel, with papers indicating a neutral destination, which, notwithstanding the destination shown on the papers, proceeds to an enemy port, shall be liable to capture and condemnation if she is encountered before the end of her next voyage.—Br. O. in C., Oct. 29, 1914.

ART. 2. A neutral vessel which succeeded in carrying contraband to the enemy with false papers may be detained for having carried such contraband if she is encountered before she has completed her return voyage.—Br. O. in C., Aug. 20, 1914.

#### Ignorance of war.

ART. 43. If a vessel is encountered at sea making a voyage in ignorance of the hostilities or of the declaration of contraband affecting her cargo, the contraband is not to be condemned except with indemnity; the vessel herself and the remainder of the cargo are exempt from condemnation and from the expenses referred to in article 41. The case is the same if the master after becoming aware of the opening of hostilities, or of the declaration of contraband, has not yet been able to discharge the contraband. A vessel is deemed to be aware of the state of war, or of the declaration of contraband, if she left a neutral port after there had been made in sufficient time the notification of the opening of hostilities, or of the declaration of contraband, to the power to which such port belongs. A vessel is also deemed to be aware of a state of war if she left an enemy port after the opening of hostilities.—D. of L. 1909.

65. If a neutral vessel, met at sea with contraband destined to the enemy, is unaware of the existence of a state of war or of a decla-

ration of contraband which applies to her cargo, the vessel shall, as a rule, be sent in for adjudication, and though the cargo may not be liable to condemnation it may be detained or requisitioned.

66. A vessel is deemed to be aware of the existence of a state of war or of a declaration of contraband if she left a neutral port after sufficient time had elapsed for the publication there of the notification of the opening of hostilities to the neutral power to which the port belongs, or for the publication there of the contraband lists proclaimed by the United States, respectively. A vessel is also deemed to be aware of the existence of a state of war if she left an enemy port after the war began.—U. S. Ins. 1917.

53. Si vous rencontrez en mer un navire naviguant dans l'ignorance des hostilités ou de la déclaration de contrebande applicable à son chargement, vous pourrez néanmoins saisir ces articles de contrebande; mais, la confiscation de ces articles, pouvant ultérieurement donner lieu à une indemnité, vous aurez soin de dresser un procès-verbal très précise en nature, poids et valeur des marchandises ainsi saisies. Dans ce cas, le navire et le surplus de sa cargaison, tout en étant sujets à être saisis, seront exempts de confiscation. Il en sera de même si le capitaine, après avoir eu connaissance de l'ouverture des hostilités ou de la déclaration de contrebande, n'a pu encore décharger les articles de contrebande.—Fr. Ins. 1912.

54. Le navire est réputé connaître l'état de guerre ou la déclaration de contrebande, lorsqu'il a quitté un port ennemi après l'ouverture des hostilités ou lorsqu'il a quitté un port neutre après que la notification de l'ouverture des hostilités ou de la déclaration de contrebande a été faite en temps utile à la Puissance dont relève ce port.—Fr. Ins. 1912.

44. When a ship upon being visited has no knowledge of the outbreak of hostilities or of the contraband declaration applicable to her cargo, the contraband may be seized by bringing in the ship, but it is subject to confiscation only with reimbursement for damages, while the ship and the other cargo are exempt from confiscation. The same holds when the master had acquired the information in question, but had not been able to discharge the contraband in a port; it is not to be accepted as an objection that he would have had to deviate from his course to do so. When an enemy ship under these circumstances is brought in the contraband goods on board are subject to confiscation so far as they are enemy goods, without damages.—Ger. O. 1909.

45. In judging whether the knowledge in question existed, it is to be taken into consideration,

(a) That the state of war is made known immediately in German, allied, and enemy ports, as far as they have telegraphic connection;

(b) That the beginning of hostilities is made known immediately to neutral governments by telegraph and is by them immediately in the same way communicated to their port authorities;

(c) That the declaration as to contraband is published in the German Empire upon the outbreak of hostilities and is communicated to allied and neutral governments by telegraph, who will communicate it to their port authorities, etc., without delay;

(d) That the contraband declaration will not become known in enemy ports at least for the present.—Ger. O. 1909.

ART. XXXVIII. Vessels carrying contraband persons, papers, or goods, but which do not know the outbreak of war shall be exempt from capture. The fact that the master of a vessel does not know the persons, papers, or goods on board to be contraband of war, or that he took them on board under compulsion, shall not exempt the vessel from capture.—Jap. Reg. 1904.

ART. 67. If a vessel is encountered at sea by a Japanese man-of-war, making a voyage in ignorance of the hostilities or of the declaration of contraband affecting her cargo, the vessel may be detained. The case is the same if the master after becoming aware of the opening of hostilities, or of the declaration of contraband, has not yet been able to discharge the contraband. A vessel is presumed to be aware of the state of war, or of the declaration of contraband, if she left a neutral port after there had been made in sufficient time the notification of the opening of hostilities; or of the declaration of contraband, to the power to which such port belongs. The case is the same with a vessel which left an enemy port after the opening of hostilities; or a Japanese port or that of an allied power after the opening of hostilities or after the declaration of contraband had been made.—Jap. Reg. 1914.

ART. 68. In the case of the preceding article, the commander of the man-of-war, may, if necessary, seize the contraband goods. In this case, as compensation must be made in the future, such commanding officer shall prepare a document according to Form No. 4 with regard to kinds of contraband goods, their prices, insurance premium and freight, and shall give one copy to the master of the vessel.—Jap. Reg. 1914.

ART. 69. When a commander of a man-of-war has not detained a vessel coming under article 67, he shall order the boarding officer to enter the notification in the ship's papers according to Form No. 5 and may, when he considers necessary, take suitable measures such as ordering the vessel to alter her route, etc.—Jap. Reg. 1914.

ART. 75. In the case of article 67, the vessel carrying contraband and the remainder of the cargo are exempt from condemnation. With regard to the vessel and her cargo of the preceding paragraph,

they are exempt from the expenses referred to in article 73.—Jap. Reg. 1914.

#### Costs.

ART. 41. If a vessel carrying contraband is released, the expenses incurred by the captor in the trial before the national prize court as also for the preservation and custody of the ship and cargo during the proceedings are chargeable against the ship.—D. of L. 1909.

ART. 73. If a vessel carrying contraband is released, the expenses incurred by the authorities concerned in the trial before the national prize court as also the preservation and custody of the ship and cargo during the proceedings are chargeable against the ship.—Jap. Reg. 1914.

#### Goods of owner.

ART. 42. Goods which belong to the owner of the contraband and which are on board the same vessel are liable to condemnation.—D. of L. 1909.

ART. XLIII. Contraband goods and all goods on board belonging to the owner of the contraband shall be forfeited. When the owner of a vessel carrying contraband is also the owner of the contraband goods, the vessel shall be forfeited.—Jap. Reg. 1904.

42. All contraband of war are liable to condemnation. All goods belonging to the owner of the contraband of war are liable to condemnation.—China, Reg. 1917.

ART. 74. Goods which belong to the owner of the contraband and which are on board the same vessel are liable to condemnation.—Jap. Reg. 1914.

#### Delivery at sea.

ART. 44. A vessel stopped because carrying contraband, and not liable to condemnation on account of the proportion of contraband, may, according to circumstances, be allowed to continue her voyage if the master is ready to deliver the contraband to the belligerent ship. The delivery of the contraband is to be entered by the captor on the log book of the vessel stopped, and the master of the vessel must furnish the captor duly certified copies of all relevant papers. The captor is at liberty to destroy the contraband which is thus delivered to him.—D. of L. 1909.

86. If, under the provisions of a treaty between the United States and his country, the master of a vessel agrees to deliver and does deliver the contraband cargo to the commander of the ship of war, the vessel, as a rule, shall not be sent in for adjudication. Any contraband cargo so delivered shall be accompanied by an inventory, and a receipt therefor shall be given for the protection of interested parties. The vessel shall thereupon be released. If circumstances

preclude such delivery of the contraband cargo, the vessel should in general be sent in.—U. S. Ins. 1917.

51. Suivant les circonstances, vous pourrez autoriser à continuer sa route un navire arrêté pour cause de contrebande et non susceptible de confiscation à raison de la proportion de la contrebande, si le capitaine est prêt à vous livrer cette contrebande. La remise de la contrebande sera mentionnée sur le livre de bord du navire arrêté, et le capitaine de ce navire devra vous remettre copie certifiée conforme de tous papiers utiles.—Fr. Ins. 1912.

52. Vous aurez la faculté de détruire la contrebande qui vous sera ainsi livrée.—Fr. Ins. 1912.

46. The captain can abstain from the seizure of a ship carrying contraband which is not herself liable to confiscation under 41, when the master is ready to deliver over the contraband to him. The delivery of the contraband is to be entered in the log book of the ship visited; the master of the ship must deliver to the captain for the prize court proceedings an attested copy of all relevant papers. The captain is authorized to destroy the contraband so delivered to him.—Ger. O. 1909.

14. If only the contraband of war is subject to confiscation without the vessel on which it is loaded, the vessel itself is detained only until the contraband is surrendered. This surrender may take place, in the discretion of the detainer (captor), either at the place of detention or after the detained vessel has been conducted into port.—Rus. Reg. 1895.

ART. 70. A vessel stopped because carrying contraband, and not liable to condemnation on account of the proportion of contraband, may, according to circumstances, be allowed to continue her voyage if the master is ready to deliver the contraband to the belligerent ship. The delivery of the contraband is to be entered by the captor on the log book of the vessel stopped, and the master of the vessel must furnish the captor duly certified copies of all relevant papers. The captor shall prepare a document in duplicate according to Form No. 6 with regard to kinds of contraband and shall give one copy to the master of the vessel. The captor is at liberty to destroy the contraband which is thus delivered to him.—Jap. Reg. 1914.

#### Free goods.

ART. 26. If a power waives, so far as it is concerned, the right to regard as contraband of war articles and materials which are comprised in any of the classes enumerated in articles 22 and 24, it shall make known its intention by a declaration notified in the manner provided for in the second paragraph of article 23.—D. of L. 1909.

ART. 27. Articles and materials which are not susceptible of use in war are not to be declared contraband of war.—D. of L. 1909.

25. Articles and materials even though enumerated in paragraph 24, if exempted by special treaty provisions, are not regarded as contraband.—U. S. Ins. 1917.

30. Vous ne considérez pas comme contrebande de guerre les armes et les munitions exclusivement destinées à la défense du bâtiment, et en la quantité que permet la coutume, à moins qu'il n'en ait été fait usage pour résister à la visite.—Fr. Ins. 1912.

ART. 57. Things enumerated below shall not be considered contraband of war in spite of the provisions of the preceding two articles:

(1) Articles and materials serving exclusively for the care of the sick and wounded. They may, nevertheless, in case of urgent military necessity and subject to the payment of compensation be requisitioned if their destination is that specified in article 58.

(2) Articles and materials intended for use of the vessel in which they are found, as well as those for the use of her crew and passengers during the voyage.—Jap. Reg. 1914.

44. Les objets et matériaux qui ne sont pas compris dans les deux listes ci-dessus de contrebande absolue ou de contrebande conditionnelle, ou qui ne vous auraient pas été notifiés comme devant y être ajoutés, ne sont pas contrebande de guerre.—Fr. Ins. 1912.

26. Articles and materials which can not be employed for war purposes may not be declared contraband of war.—Ger. O. 1909.

ART. 28. The following may not be declared contraband of war:

(1) Raw cotton, wool, silk, jute, flax, hemp, and other raw materials of the textile industries, and also yarns of the same.

(2) Nuts and oil seeds; copra.

(3) Rubber, resins, gums, and lacs; hops.

(4) Raw hides, horns, bones, and ivory.

(5) Natural and artificial manures, including nitrates and phosphates for agricultural purposes.

(6) Metallic ores.

(7) Earths, clays, lime, chalk, stone, including marble, bricks, slates, and tiles.

(8) Chinaware and glass.

(9) Paper and materials prepared for its manufacture.

(10) Soap, paint, and colors, including articles exclusively used in their manufacture, and varnishes.

(11) Bleaching powder, soda ash, caustic soda, salt cake, ammonia, sulphate of ammonia, and sulphate of copper.

(12) Agricultural, mining, textile, and printing machinery.

(13) Precious stones, semi-precious stones, pearls, mother-of-pearl, and coral.

(14) Clocks and watches, other than chronometers.

(15) Fashion and fancy goods.

(16) Feathers of all kinds, hairs, and bristles.

(17) Articles of household furniture and decoration; office furniture and accessories.

—D. of L. 1909.

45. Ne sont jamais contrebande de guerre les articles suivants, savoir :

1. Le coton brut, les laines, soies, jutes, lins, chanvres bruts, et les autres matières premières des industries textiles ainsi que leurs filés;
2. Les noix et graines oléagineuses, le coprah;
3. Les caoutchoucs, résines, gommes et laques, le houblon;
4. Les peaux brutes, les cornes, os et ivoires;
5. Les engrâis naturels et artificiels, y compris les nitrates et les phosphates pouvant servir à l'agriculture;
6. Les minéraux;
7. Les terres, les argiles, la chaux, la craie, les pierres y compris les marbres, les briques, ardoises et tuiles;
8. Les porcelaines et verreries;
9. Le papier et les matières préparés pour sa fabrication;
10. Les savons, couleurs, y compris les matières exclusivement destinées à les produire, et les vernis;
11. L'hypochlorite de chaux, les cendres de soude, la soude caustique, le sulfate de soude en pains l'ammoniaque, le sulfate d'ammoniaque et le sulfate de cuivre;
12. Les machines servant à l'agriculture, aux mines, aux industries textiles et à l'imprimerie;
13. Les pierres précieuses, les pierres fines, les perles, la nacre et les coraux;
14. Les horloges, pendules et montres, autres que les chronomètres;
15. Les articles de mode et les objets de fantaisie;
16. Les plumes de tout genre, les crins et soies;
17. Les objets d'ameublement et d'ornement, les meubles et accessories de bureau.

—Fr. Ins. 1912.

27. The following articles can not be declared contraband of war:

1. Raw cotton, raw wool, raw silk, raw jute, raw flax, raw hemp, and other raw materials of textile industries, and also the yarn spun from them.
2. Oil bearing seeds and nuts; copra.
3. Caoutchuc, resin, rubber, and gum; hops.
4. Raw hides, horns, bones, and ivory.
5. Natural and manufactured fertilizers, including nitrate and phosphates suitable for agricultural purposes.
6. Ores.
7. Soil, clay, lime, chalk, stone, including marble, brick, slate, and roofing materials.
8. Porcelain and glassware.
9. Paper and material prepared for its manufacture.
10. Soap, dye-stuff, including material exclusively intended for its manufacture, and varnish.
11. Chloride of lime, soda, caustic soda, sulphuric acid, sodic sulphate in cakes, ammonia, ammonia-sulphate and copper sulphate.
12. Machinery for agriculture, mining, textile industries, and book printing.
13. Precious stones, semi-precious stones, pearls, mother-of-pearl, and corals.
14. Tower and wall clocks, clocks and watches, other than chronometers.
15. Fancy goods and jewelry.
16. Feathers of all kinds, hair, and bristles.

17. Articles of household furnishing and decoration; office furniture and equipment.

—Ger. O. 1909.

ART. 27. The following are not to be declared contraband of war:

- (1) Raw cotton, raw silk, raw jute, raw hemp.
- (2) Resins, lacs; hops.
- (3) Rawhides, horns, bones, and ivory.
- (4) Natural and artificial manures.
- (5) Earths, clays, lime, chalk, stone, including marble, bricks, slates, and tiles.
- (6) Chinaware and glass.
- (7) Paper and materials prepared for its manufacture.
- (8) Soap, paint, and colors, including articles exclusively used in their manufacture, and varnishes.
- (9) Bleaching powder, soda ash, caustic soda, salt cake, ammonia, sulphate of ammonia, and sulphate of copper.
- (10) Agricultural, mining, textile, and printing machinery.
- (11) Precious stones, semi-precious stones, pearls, mother-of-pearl, and coral.
- (12) Clocks and watches, other than chronometers.
- (13) Fashion and fancy goods.
- (14) Feathers of all kinds, hairs, and bristles.
- (15) Articles of household furniture and decoration; office furniture and accessories.

—Ger. O. amendments, April 18, 1915.

28. Further as not to be regarded as contraband of war are the following:

1. Articles and materials which serve exclusively for the care of the sick and wounded; provided, however, that in case of urgent military necessity, they may be requisitioned for use upon payment therefor, if they have the destination set forth under 29.

2. Articles and materials which are intended for the use of the ship on board which they are found, or for the use of the crew or passengers of the ship during the voyage.—Ger. O. 1909.

ART. XVIII. Of the goods mentioned in Articles XIII and XIV, if it is clear from their quantity and quality that they are intended for the vessel's own use, such goods shall not be considered contraband of war.—Jap. Reg. 1904.

ART. 29. Neither are the following to be regarded as contraband of war:

(1) Articles and material serving exclusively for the care of the sick and wounded. They may, nevertheless, in case of urgent military necessity and subject to the payment of compensation, be requisitioned, if their destination is that specified in article 30.

(2) Articles and materials intended for the use of the vessel in which they are found, as well as those for the use of her crew and passengers during the voyage.—D. of L. 1909.

46. Ne sont pas non plus considérés comme contrebande de guerre :

1. Les objets et matériaux servant exclusivement à soigner les malades et les blessés. Toutefois, en cas de nécessité militaire importante, vous pourrez les réquisitionner, moyennant une indemnité s'ils sont destinés au territoire de l'ennemi ou à un territoire occupé par lui ou à ses forces armées;

2. Les objets et matériaux destinés à l'usage du navire où ils sont trouvés, ainsi qu'à l'usage de l'équipage et des passagers de ce navire pendant la traversée.—Fr. Ins. 1912.

45. Will not be considered as contraband of war all articles and materials serving exclusively for the care of the sick and wounded; however, the following products do not benefit by the preceding measure except for amounts up to 25 kilograms (55 pounds) each:

Glycerophosphate of lime, iodoform, iodure vasogene (vasogenous iodide), bromide of camphor, and boro-glycerine.

In case of important military necessity, you can requisition the above mentioned articles and materials, against an indemnity, if they are destined for the territory of the enemy or for a territory occupied by him or his armed forces.—Fr. Ins. 1916.

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## UNNEUTRAL SERVICE

### **Definition.**

35. Unneutral service is service rendered by a neutral to a belligerent contrary to international law. It is in its nature indirect or direct.—U. S. Ins. 1917.

PAR. 2. Merchant vessels of neutral nationality may according to circumstances be not only detained but also confiscated, in the case of the following forbidden actions:

Transportation of enemy armed forces, enemy news and correspondence; when on a voyage especially intended for transportation of individuals who form part of the enemy armed forces, or to carry news in the interests of the enemy power; cruising under command or control of an agent who has been placed on board by the enemy government, and also if the latter has wholly chartered the neutral vessel.—Rus. Reg. Dec. 11, 1916.

*Appendix.*—The following acts are considered on a par with military contraband and involve the same consequences for a neutral vessel and cargo: (1) conveyance of hostile troops, military detachments, and individual military persons, and (2) conveyance of enemy's dispatches—that is, business correspondence between hostile commanders and their agents stationed on a vessel or on territory belonging to or occupied by the enemy.—Rus. Ins. 1900.

7. A ship shall be captured as guilty of giving assistance to the enemy if she—

- (a) Has taken direct part in hostilities;
- (b) Has been entirely chartered by an enemy government, or has on board an agent of such government in control of the ship;
- (c) Is employed exclusively for the transport of troops, or for the transmission of news in the enemy's interest;
- (d) Is engaged in transporting enemy military detachments or persons who during the voyage may render or have lent direct assistance to the enemy's operations with the knowledge of the owner, charterer, or master;
- (e) Is navigating with the specific object of transporting individuals on their way to join the enemy's armed forces.—Italy, P. R. 1915.

Direct.

ART. 46. A neutral vessel is liable to be condemned and, in a general way, is liable to the same treatment which she would undergo if she were a merchant vessel of the enemy—

- (1) If she takes a direct part in the hostilities.
- (2) If she is under the orders or under the control of an agent placed on board by the enemy government.
- (3) If she is chartered entire by the enemy government.
- (4) If she is at the time and exclusively either devoted to the transport of enemy troops or to the transmission of information in the interest of the enemy.

In the cases specified in the present article the goods belonging to the owner of the vessel are likewise liable to condemnation.—D. of L. 1909.

39. A neutral vessel is guilty of direct unneutral service and may not only be captured but may be treated as an enemy merchant vessel—

- (a) If she takes a direct part in the hostilities.
- (b) If she is under the orders or under the control of an agent placed on board by the enemy government.
- (c) If she is wholly chartered by or in the exclusive employment of the enemy government.
- (d) If she is at the time exclusively engaged in, or wholly devoted to, either the transport of enemy troops or in the transmission of information in the interest of the enemy by radio or otherwise.—U. S. Ins. 1917.

61. Vous capturerez également tout navire neutre;

1. Lorsqu'il prend une part directe aux hostilités;
2. Lorsqu'il se trouve sous les ordres ou sous le contrôle d'un agent placé à bord par le Gouvernement ennemi;

3. Lorsqu'il est affrété en totalité ou en partie par le Gouvernement ennemi;

4. Lorsqu'il est actuellement et exclusivement affecté soit au transport de troupes ennemis, soit à la transmission de nouvelles dans l'intérêt de l'ennemi.—Fr. Ins. 1912.

62. Dans les quatre cas ci-dessus spécifiés, le navire sera passible de confiscation et, d'une manière générale, passible du traitement qu'il subirait s'il était navire de commerce ennemi.—Fr. Ins. 1912.

55. A neutral ship further renders unneutral service to the enemy—

(a) When it directly takes part in the hostilities. Against such a ship, force of arms is to be used, until its unneutral procedure ceases.

(b) When it is under the order or control of an agent of the enemy government installed on board the ship.

(c) When it has been chartered by the enemy government.

(d) When it is actually and expressly designated for the transport of enemy troops or transmission of information in the enemy's interest.

This applies, in contrast to 48, not to one particular voyage, but on the contrary to a continued employment of the ship for the particular purpose. So long as such employment exclusively continues, unneutral service is rendered, even while the ship lying idle, neither carries troops, nor transmits information.—Ger. O. 1909.

56. So long as circumstances named in 55 continue, the ship is to be treated as hostile. The merchandise in the cargo belonging to the owner of the ship is also confiscable.—Ger. O. 1909.

ART. 80. A neutral vessel is liable to capture in one of the following cases:

(1) If she takes a direct part in the hostilities.

(2) If she is under the orders or under the control of an agent placed on board by the enemy government.

(3) If she is chartered entire by the enemy government.

(4) If she is at the time and exclusively either devoted to the transport of enemy troops or to the transmission of information in the interest of the enemy.

A vessel coming under the preceding paragraph is, in a general way, liable to the same treatment which she would undergo if she were a merchant vessel of the enemy.—Jap. Reg. 1914.

ART. 81. In the cases specified in the preceding article, the vessel and the goods belonging to the owner of the vessel are liable to condemnation.—Jap. Reg. 1914.

ART. 10. Vessel liable to capture (9) if the neutral vessel takes part in this employment, or assists in any way in such operations.—Spain, Ins. 1898.

ART. XLVI. Vessels that are recognized to have been fitted out for the enemy for military purposes, and the goods belonging to the owners of such vessels, shall be confiscated.—Jap. Reg. 1904.

ART. XLVII. Vessels ascertained to have scouted or carried information to give benefit to the enemy or to have done any other acts to assist him, and all goods belonging to the owners of such vessels, shall be confiscated.—Jap. Reg. 1904.

#### Indirect.

ART. 45. A neutral vessel is liable to be condemned and in a general way, is liable to the same treatment which a neutral vessel would undergo when liable to condemnation on account of contraband of war.

(1) If she is making a voyage especially with a view to the transport of individual passengers who are embodied in the armed force of the enemy, or with a view to the transmission of information in the interest of the enemy.

(2) If, with the knowledge of the owner, of the one who charters the vessel entire, or of the master, she is transporting a military detachment of the enemy, or one or more persons who, during the voyage, lend direct assistance to the operations of the enemy.

In the cases specified in the preceding paragraphs (1) and (2), goods belonging to the owner of the vessel are likewise liable to condemnation. The provisions of the present article do not apply if when the vessel is encountered at sea she is unaware of the opening of hostilities, or if the master, after becoming aware of the opening of hostilities, has not been able to disembark the passengers. The vessel is deemed to know of the state of war if she left an enemy port after the opening of hostilities, or a neutral port after there had been made in sufficient time a notification of the opening of hostilities to the power to which such port belongs.—D. of L. 1909.

36. A neutral vessel is guilty of indirect unneutral service and may be sent in for adjudication as a neutral vessel liable to condemnation—

(a) If she specially undertakes to transport individual passengers who are embodied in the armed forces of the enemy and who are en route for military service of the enemy or to a hostile destination, or transmits intelligence in the interest of the enemy whether by radio or otherwise.

(b) If, to the knowledge of the owner, or the charterer, or of the agents thereof, or of the master, she is transporting a military detachment of the enemy, or one or more persons who are embodied in the military or naval service of the enemy and who are en route for military service of the enemy or to a hostile destination, or one or more persons who, during the voyage, lend direct assistance to the

enemy, or is transmitting information in the interest of the enemy by radio or otherwise.—U. S. Ins. 1917.

37. The above provisions do not apply if, when the vessel is met at sea, she is unaware of the existence of a state of war, or if the master, after becoming aware of the opening of hostilities, has not yet been able to disembark the passengers.—U. S. Ins. 1917.

38. The vessel is deemed to be aware of the existence of a state of war if she left an enemy port after the opening of hostilities, or left a neutral port after the publication there of the notification to the neutral power to which the port belongs of the opening of hostilities.—U. S. Ins. 1917.

55. Vous capturerez tout navire neutre :

1. S'il voyage spécialement en vue du transport de passagers individuels incorporés dans la force armée de l'ennemi ou en vue de la transmission de nouvelles dans l'intérêt de l'ennemi ;

2. S'il vous apparaît que c'est à la connaissance soit du propriétaire, soit de celui qui a affréter le navire en totalité, soit du capitaine, qu'il transporte un détachement militaire de l'ennemi ou une ou plusieurs personnes qui, pendant le voyage, prêtent une assistance directe aux opérations de l'ennemi.—Fr. Ins. 1912.

56. Dans les deux cas spécifiées ci-dessus, le navire sera passible de confiscation et, d'une manière générale, passible du traitement que subirait le navire neutre sujet à confiscation pour contrebande de guerre.—Fr. Ins. 1912.

57. Toutefois les dispositions du paragraphe 54, alinéa 2, ne s'appliquent pas si, lorsque le navire est rencontré en mer, il ignore les hostilités ou si le capitaine, après avoir appris l'ouverture des hostilités, n'a pu encore débarquer les personnes transportées.—Fr. Ins. 1912.

48. A neutral ship renders the enemy unneutral service when she (a) carries out the voyage, departing from her usual employment expressly for the purpose of conveying persons enrolled in the hostile forces or for carrying information in the interest of the enemy; (b) with knowledge of the owner, charterer, or master, has on board a complete subdivision of enemy troops, or one or more persons who will assist the enemy's operations during the voyage. The captain is among other things empowered to assume this when a ship equipped with radio-telegraphic apparatus is clearly found to be engaged in the transmission of war information within the area of operations and does not comply with an express prohibition.—Ger. O. 1909.

51. So long as the circumstances named in 48 exist, the ship is liable to capture and confiscation. Of the cargo, only the merchandise belonging to the owner of the ship is confiscable.—Ger. O. 1909.

ART. 76. A neutral vessel is liable to capture in one of the following cases:

(1) If she is making a voyage especially with a view to the transmission of information in the interest of the enemy.

(2) If, with the knowledge of the owner, of the one who charters the vessel entire, or of the master, she is transporting a military detachment of the enemy, or one or more persons who, during the voyage, lend direct assistance to the operations of the enemy.

A vessel coming under the preceding paragraph is liable to the same treatment which a neutral vessel in general would undergo when liable to condemnation on account of contraband of war.—Jap. Reg. 1914.

ART. 77. In the cases specified in the preceding article, the vessel and the goods belonging to the owner of the vessel and liable to be condemned.—Jap. Reg. 1914.

ART. 86. The provisions of this chapter are applicable to Japanese vessels and also to those of allied powers.—Jap. Reg. 1914.

58. Le navire est réputé connaître l'état de guerre, lorsqu'il a quitté un port ennemi après l'ouverture des hostilités ou un port neutre postérieurement à la notification en temps utile de l'ouverture des hostilités à la puissance dont relève ce port.—Fr. Ins. 1912.

ART. 78. The provisions of article 76 do not apply if when the vessel is encountered at sea by a Japanese man-of-war she is unaware of the opening of hostilities, or if the master, after becoming aware of the opening of hostilities, has not been able to disembark the passengers. The vessel is deemed to know of the state of war if she left a Japanese port, a port of an ally, or an enemy port after the opening of hostilities, or a neutral port after there had been made in sufficient time a notification of the opening of hostilities to the power to which such port belongs.—Jap. Reg. 1914.

ART. 79. With regard to a vessel which does not know of the opening of hostilities, the commanding officer of a man-of-war shall order the boarding officer to enter in the ship's papers the notification according to Form No. 5, and, if necessary, may take measures he thinks fit, such as change of route, etc.—Jap. Reg. 1914.

ART. 10. Vessel liable to capture: (6) If she carries on behalf of the enemy officers, troops, or seamen.—Spain, Ins. 1898.

49. Reservists, recruits, and war volunteers proceeding to their places of mustering in, are not to be regarded as "persons embodied in the hostile forces."—Ger. D. O. 1909.

ART. XLII. Contraband persons shall be made prisoners and contraband papers shall be forfeited. Any vessel carrying contraband persons or papers and the goods on board which belong to the owner of such vessel, shall be forfeited, unless the captain proves that not by his own fault he is unacquainted with the fact.—Jap. Reg. 1904.

46. Ships engaged in transmitting information in the interest of the enemy or vessels engaged in enemy service and the cargo belonging to the owner of such vessels are liable to condemnation.—China, Reg. 1917.

ART. XI. Contraband persons are the enemy's military men and others who are being transported to be employed for hostile purposes.—Jap. Reg. 1904.

44. Hostile persons are liable to capture as prisoners of war. Vessels carrying hostile persons and the cargo belonging to the owner of the vessel are liable to condemnation, unless proofs are given to show that the ship had no knowledge of the passengers of enemy character.—China, Reg. 1917.

63. Vous remarquerez que le transport des dépêches officielles ne peut être incriminé que s'il est fait à titre spécial; dans le cas contraire, vous vous conformerez aux dispositions de l'Article XVI ci-après.—Fr. Ins. 1912.

50. By "transmission of information" is meant any communicating of information, whether written or oral, or by signal or radio-telegraphy.—Ger. O. 1909.

ART. 10. Vessel liable to capture: (7) If she carries letters and communications of the enemy, unless she belong to a marine mail service, and these letters or communications are in bags, boxes, or parcels with the public correspondence, so that the captain may be ignorant of the contents.—Spain, Ins. 1898.

ART. XII. Contraband papers are all official correspondence of the officers of the enemy's government. Official correspondence between the enemy's government and its ministers and consuls residing in neutral States, and official correspondence between the enemy's government and the government of neutral States are not, however, contraband.—Jap. Reg. 1904.

ART. 10. Vessel liable to capture: (8) If the vessel is employed in watching the operations of the war, either freighted by the other belligerent or paid to perform this service.—Spain, Ins. 1898.

#### **Delivery of persons at sea.**

ART. 47. Any individual embodied in the armed force of the enemy, and who is found on board a neutral merchant vessel, may be made a prisoner of war, even though there be no ground for the capture of the vessel.—D. of L. 1909.

59. Alors même qu'il n'y aurait pas lieu de capturer le navire, vous pourrez faire prisonnier de guerre tout individu incorporé dans la force armée de l'ennemi et qui sera trouvé à bord d'un navire de commerce neutre. Vous demanderez tout d'abord au capitaine du navire de vous remettre ces individus. En cas de refus de

sa part, vous passerez outre et vous les ferez prisonniers de guerre. En cas de résistance de la part du personnel du navire, vous capturerez le navire.—Fr. Ins. 1912.

60. Le personnel religieux, médical et hospitalier ennemi trouvé à bord d'un navire de commerce neutre ne peut être fait prisonnier de guerre; mais, avant de laisser libre ce personnel, vous vous assurez avec soin de la réalité de son caractère. En cas de doute, vous pourrez le retenir dans la forme ci-dessus indiquée jusqu'à ce que la preuve de ce caractère soit établie.—Fr. Ins. 1912.

53. Every person enrolled in the forces of the enemy who is found on board a merchant ship may be made a prisoner of war, even when the ship herself is not liable to capture.—Ger. O. 1909.

54. Persons who, without being embodied in the armed forces of the enemy, render direct assistance to the operations of the enemy during the voyage may be taken as prisoners only if the vessel is captured at the same time.—Ger. O. 1909.

8. Persons belonging to or intending to join the enemy's armed forces found on board a neutral vessel may be made prisoners of war, even though the ship be not subject to capture.—Italy, P. R. 1915.

PAR. 3. Anyone, forming part of the armed forces of the enemy and found on a neutral vessel (merchant) may be taken war prisoner, even if there is no reason for seizing the vessel.—Rus. Reg. Dec. 8, 1916.

ART. 82. Any individual embodied in the armed force of the enemy, and who is found on board a neutral merchant vessel, may be made a prisoner of war, even though there be no ground for the capture of the vessel.—Jap. Reg. 1914.

ART. 83. In the case of the preceding article, the boarding officer, by order of the commanding officer of the man-of-war, may request the master of the vessel to deliver such individuals. If the master refuses to deliver them, the boarding officer shall seize such individuals and, if the crew of the vessel resist, shall capture the vessel.—Jap. Reg. 1914.

ART. 84. In the case of the preceding article, the boarding officer shall prepare a document in duplicate regarding the delivery according to Form No. 7 and shall give one copy to the master of the vessel.—Jap. Reg. 1914.

ART. 85. In case the master of the vessel objects to the delivery of individuals specified in article 82, the commanding officer of the man-of-war shall immediately report to the Minister of the Navy the gist of the objection and the measures he has taken.—Jap. Reg. 1914.

## COMMUNICATION

### CABLES, SUBMARINE

#### **Unneutral service.**

**ART. 54. C. Câbles sous-marins.**—Les Etats belligérants ne sont autorisés à saisir et à détruire, dans les conditions déterminées ci-dessous, que les câbles sous-marins reliant leurs territoires ou deux points de ces territoires, et les câbles reliant le territoire d'un des pays en guerre à un territoire neutre.

Le câble les territoires des deux belligérants ou deux parties du territoire d'un des belligérants peut être saisi ou détruit partout, excepté dans les eaux d'un Etat neutre.

Le câble reliant un territoire neutre au territoire d'un des belligérants ne peut, en aucun cas, être saisi ou détruit dans les eaux dépendant d'un territoire neutre. En haute mer, ce câble ne peut être saisi ou détruit que s'il y a blocus effectif et dans les limites de la ligne de blocus, sauf rétablissement du câble dans le plus bref délai possible. Ce câble peut toujours être saisi ou détruit sur le territoire et dans la mer territoriale dépendant d'un territoire ennemi, jusqu'à une distance de trois milles marins de la laisse de basse marée. La saisie ou la destruction ne peut jamais avoir lieu que dans le cas de nécessité absolue.

En ce qui concerne l'application des règles précédentes, il n'y a pas de différence à établir entre les câbles, selon qu'ils sont des câbles, d'Etat ou qu'ils appartiennent à des particuliers; il n'y a pas non plus à tenir compte de la nationalité de leurs propriétaires.

Les câbles sous-marins reliant un territoire belligérant à un territoire neutre, qui auront été saisis ou détruits, devront être restitués et les indemnités seront réglées à la paix.—Institut, 1913.

40. Unless under satisfactory censorship or otherwise exempt, the following rules are established with regard to the treatment of submarine telegraph cables in time of war, irrespective of their ownership.

(a) Submarine telegraph cables between points in territory belonging to or occupied by the enemy or between such territory and territory of the United States are subject to such treatment as the necessities of war may require.

(b) Submarine telegraph cables between points in territory belonging to or occupied by the enemy and neutral territory may be interrupted within the territorial jurisdiction of the enemy or at any point outside of neutral jurisdiction, if the necessities of war require.

(c) Submarine cables connecting an occupied territory with a neutral territory shall not be seized or destroyed except in the case of absolute necessity.

They must likewise be restored, and compensation shall be fixed when peace is made.

(d) Submarine telegraph cables between two neutral territories shall be held inviolable and free from interruption.—U. S. Ins. 1917.

#### **Between enemy territory.**

18. Autant que possible, et sans nuire aux opérations principales où vous serez engagé, vous vous efforcerez de procéder à la destruction des câbles sous-marins reliant exclusivement des possessions de l'ennemi.—Fr. Ins. 1912.

ART. 11. A submarine cable which connects dominions of an enemy may be cut, or any measures necessary for military purposes may be taken in regard to it, at any place except in the territorial waters of a neutral country. The same is the case with a cable which connects Japan and a dominion of an enemy, if necessary for military purposes.—Jap. Reg. 1914.

#### **Between neutral and enemy territory.**

20. Quant aux câbles qui, venant d'un pays neutre, atterrissent en territoire ennemi ou le traversent, vous les mettrez hors de service partout ailleurs que dans les eaux territoriales neutres, s'ils sont susceptibles d'être utilisés par le belligérant pour la conduite immédiate de ses opérations de guerre.—Fr. Ins. 1912.

ART. 12. A submarine cable which connects an enemy country and a neutral State, or a submarine cable which has its termini in neutral State but passes the dominions of an enemy may be cut at any place outside of the territorial waters of neutral States, or any measures necessary for military purposes may be taken with regard to it, but only when there is absolute necessity.—Jap. Reg. 1914.

#### **Connecting neutrals.**

19. Vous respecterez les câbles qui relient exclusivement entre eux deux pays neutres.—Fr. Ins. 1912.

ART. 13. Submarine cables connecting dominions of neutral countries shall be respected.—Jap. Reg. 1914.

#### **Nationality of owner.**

21. Dans aucun de ces cas, vous n'avez à tenir compte de la nationalité de la compagnie ou société propriétaire du câble.—Fr. Ins. 1912.

ART. 14. The provisions of the preceding three articles shall be applicable no matter who is the owner of the cable.—Jap. Reg. 1914.

## **RADIO**

#### **Unneutral service.**

41. The commander of a naval force may regulate, or, if necessary, prohibit, the use of radio apparatus by all vessels within the immediate area of operations of the force under his command. He

may take such measures as will assure the effectiveness of the regulation or prohibition, even to the extent of requiring that the apparatus be dismantled, or in case of doubt of the observance of good faith, the apparatus may be seized.—U. S. Ins. 1917.

119. Si les circonstances l'exigent et dans la mesure où vous le jugerez indispensable, vous pourrez notifier aux navires de commerce munis d'une installation de T. S. F. qui séjourneraient dans la zone de vos operations, ou même qui la traverseraient, l'interdiction :

De transmettre des nouvelles sur votre situation ou sur vos mouvements ;

D'enregistrer des télégrammes clairs ou chiffrés provenant de votre bâtiment ou des bâtiments de votre force navale ;

D'émettre des signaux de nature à troubler vos communications.

Vous fixerez alors par une déclaration et une notification analogues à celles qui concernent le blocus, les limites géographiques et, le cas échéant, les limites de temps ou d'heures entre lesquelles s'étendra le régime de vos interdictions.—Fr. Ins. 1912.

119. Any use of radiotelegraphy intended to inform the enemy and assist him in his operation constitutes an act of hostile assistance rendering the ship liable to capture. If the circumstances require it, and within the limits that you judge indispensable, you can notify merchant ships fitted with a radio installation and finding themselves within the zone of your operations, or even which are traversing the same, of the prohibition of :

Transmitting information concerning your situation and your movements; recording telegrams in plain language or cipher sent by your ship or ships or your naval force; sending signals of a nature to trouble your communications.

You will then fix, by a declaration and a notification analogous to those concerning the blockade, the geographical limits, and, if required, the limits of time or hours between which the régime of your prohibitions will extend.—Fr. Ins. 1916.

ART. 92. In the case of article 89 or article 90, if the conduct of the vessel can be deemed to be unneutral service, the vessel shall be treated under the provisions of Chapter XIV.—Jap. Reg. 1914.

#### **Liability of vessels.**

120. Si, malgré votre notification, les navires susvisés transmettent des nouvelles interdites ou troublient systématiquement vos communications, vous agirez suivant la gravité et les conséquences de leurs actes, soit comme il est prévu à l'article 4 de la Convention X de La Haye pour l'application à la guerre maritime des principes de la Convention de Genève, soit comme il est dit pour le deuxième cas visé au paragraphe 55 (assistance hostile).

Vous pourrez donc enjoindre à ces navires de s'éloigner hors des limites fixées dans votre déclaration, leur imposer une direction

déterminée, les détenir, même les capturer et, dans tous les cas, saisir leurs appareils de T. S. F.—Fr. Ins. 1912.

121. Si la visite de ces navires vous révèle simplement l'enregistrement de dépêches interdites, vous pourrez saisir leur registre de télégrammes, leur enjoindre de s'éloigner, leur fixer une direction déterminée, et, si vous avez des motifs suffisants de suspecter leur bonne foi, saisir leurs appareils de T. S. F.—Fr. Ins. 1912.

ART. 89. A vessel which, notwithstanding that it has received the notification specified in the preceding article or notwithstanding that it may be presumed that it knows of the prohibition or restriction of article 87, violates such prohibition is liable to capture.—Jap. Reg. 1914.

ART. 93. A vessel coming under article 89 is liable to condemnation. The case is the same with the radio apparatus installed in the vessel and the registers containing messages prohibited or restricted.—Jap. Reg. 1914.

#### **Detention of vessel.**

ART. 90. In the case of a vessel which has violated the prohibition or restriction of article 87 without knowledge thereof, the commanding officer of a man-of-war may order, according to nécessity, isolation of such vessel, may give instructions as to the direction the vessel should take, and may send on board a superintendent, or in the case of grave nature, may detain the vessel if he thinks it necessary. In the case of the preceding paragraph, the commanding officer of the man-of-war shall cause, as far as practicable, all the orders he issued to be entered in the ship's papers.—Jap. Reg. 1914.

#### **Register of messages, seizure.**

ART. 91. In the case of the preceding article, registers of messages kept on board the vessel which contain records prohibited or restricted may be seized. If there are sufficient reasons to doubt the good faith of the vessel, the radio apparatus may also be seized.—Jap. Reg. 1914.

#### **Strategic area.**

ART. 87. The commanding officer of a squadron or a man-of-war may, if it is necessary in hostile operations, forbid vessels equipped with radio apparatus and lying within the radius of action thereof to do any of the following acts:

- (1) To send messages concerning position and movements of squadrons, men-of-war, or vessels employed for military purposes.
- (2) To record messages sent from a squadron, from man-of-war, or from a vessel employed for military purposes.
- (3) To do anything which obstructs messages of a squadron, of a man-of-war, or of a vessel employed for military purposes.

The commanding officer of a squadron or man-of-war may, if necessary, forbid vessels mentioned in the preceding paragraph to send cipher messages or may restrict the languages to be used in radio messages.—Jap. Reg. 1914.

ART. 88. In case the commanding officer of a squadron or of a man-of-war orders the prohibition or restriction specified in the preceding article, he shall prepare a declaration (Form No. 8) stating the geographical limits within which such prohibition or restriction extends, particulars of such prohibition or restriction, and date on which such prohibition or restriction commences, and also, if necessary, the period or hours of such prohibition or restriction; and shall order an officer under him to notify vessels equipped with radio apparatus which lie within the area of prohibition or restriction or in the neighborhood of the declaration. The notification of the preceding paragraph shall be made according to Form No. 9, stating the day and hour at which it was made and the geographical position of the vessel at that time, and the same shall be entered in the ship's papers of the vessel.—Jap. Reg. 1914.

#### **Coast station of enemy.**

ART. 94. A coast radio station lying in the enemy territory may, if necessary for military purposes, be seized or destroyed, or measures may be taken disabling the same, no matter to whom it belongs.—Jap. Reg. 1914.

## **MEANS AND METHODS OF WARFARE**

### **LIMITATIONS**

ART. 14. *Principe.*—Les belligérants n'ont pas un droit illimité quant au choix des moyens de nuire à l'ennemi.—Institut, 1913.

### **PROHIBITIONS**

ART. 16. Outre les prohibitions établies par des conventions spéciales il est interdit :

1. D'employer du poison ou des armes empoisonnées, ainsi que des projectiles que ont pour but unique de répandre des gaz asphyxiants ou délétères.

2. D'employer des armes, des projectiles ou des matières propres à causer des maux superflus. Rentrent spécialement dans cette catégorie les projectiles explosibles ou chargés de matières fulminantes ou inflammables, d'un poids inférieur à 400 grammes, et les balles qui s'épanouissent ou s'aplatissent facilement dans le corps humain, telles que les balles à enveloppe dure, dont l'enveloppe ne couvrirait pas complètement le noyau ou serait pourvue d'incisions.—Institut, 1913.

**ART. 17.** Il est également interdit:

1. De tuer ou de blesser un ennemi qui, ayant mis bas les armes ou n'ayant plus le moyen de se défendre, s'est rendu à discrétion.

2. De couler un navire qui s'est rendu avant d'avoir recueilli l'équipage.

3. De déclarer qu'il ne sera pas fait de quartier.—Institut, 1913.

#### **Perfidious and barbarous.**

**ART. 15.** *Moyens perfides et barbares.*—Les ruses de guerre sont considérées comme licites. Toutefois les moyens qui impliquent la perfidie sont défendus.

Ainsi il est interdit:

1. De tuer ou de blesser par trahison des individus appartenant à la partie adverse.

2. D'user indûment du pavillon parlementaire, de faire usage de faux-pavillons, uniformes ou insignes, quels qu'ils soient, notamment de ceux de l'ennemi, ainsi que des signes distinctifs de l'assistance hospitalière indiqués aux articles 41 et 42.—Institut, 1913.

3. In order to capture a prize either open force or permitted military stratagem must be used, but breach of faith must by no means be resorted to.—Rus. Reg. 1985.

#### **Pillage.**

**ART. 7.** A town or place, even when taken by storm, may not be pillaged.—IX, H. C. 1907.

**ART. 18.** Le pillage et la dévastation sont interdits. Il est interdit de détruire des propriétés ennemis, hors les cas où ces destructions seraient impérieusement commandées par les nécessités de la guerre ou autorisées par les dispositions du présent règlement.—Institut, 1913.

112. It is forbidden to give over to pillage a town or place, even when taken by assault.—U. S. Ins. 1917.

#### **Aircraft, discharge of explosives.**

The contracting powers agree to prohibit, for a period extending to the close of the Third Peace Conference, the discharge of projectiles and explosives from balloons or by other new methods of a similar nature.—XIV, H. C. 1907.

#### **Asphyxiating gases.**

2. The contracting powers agree to abstain from the use of projectiles the sole object of which is the diffusion of asphyxiating or deleterious gases.—IV, H. C. 1899.

#### **Expanding bullets.**

3. The contracting parties agree to abstain from the use of bullets which expand or flatten easily in the human body, such as bullets

with a hard envelope which does not entirely cover the core, or is pierced with incisions.—IV, H. C. 1899.

### REQUISITIONS

#### Of persons.

ART. 69. F. Réquisition des nationaux de l'Etat ennemi: Guides, pilotes et otages. Le belligérant n'a pas le droit de forcer les individus qui tombent en son pouvoir, et d'une manière générale les nationaux de la partie adverse, à prendre part aux opérations de guerre dirigées contre leur pays, même dans le cas où ils auraient été à son service avant le commencement de la guerre, ainsi que de les contraindre à donner des renseignements sur leur propre Etat, ses forces, sa position militaire ou ses moyens de défense.

Il ne pourra les obliger à lui servir de guides ou de pilotes.

Il pourra toutefois punir ceux qui sciemment et volontairement se seront offerts pour l'induire en erreur.

Il n'est pas permis de forcer les nationaux d'un belligérant à prêter serment à la puissance ennemie.

Il est interdit de prendre des otages.—Institut, 1913.

### MINES AND TORPEDOES

#### Prohibitions.

ART. 1. It is forbidden—

1. To lay unanchored automatic contact mines, except when they are so constructed as to become harmless one hour at most after the person who laid them ceases to control them.

2. To lay anchored automatic contact mines which do not become harmless as soon as they have broken loose from their moorings.

3. To use torpedoes which do not become harmless when they have missed their mark.—VIII, H. C. 1907.

ART. 19. *Torpilles*.—Il est interdit de faire usage de torpilles qui ne deviennent pas inoffensives lorsqu'elles auront manqué leur but.—Institut, 1913.

ART. 20. *Mines sous-marines*.—Il est interdit de placer en pleine mer des mines automatiques de contact, amarrées ou non.—Institut, 1913.

ART. 21. Les belligérants peuvent placer des mines dans leurs eaux territoriales et dans celles de l'ennemi. Mais il leur est interdit, même dans ces eaux territoriales :

1. De placer des mines automatiques de contact non amarrées, à moins qu'elles ne soient construites de manière à devenir inoffensives une heure au maximum après que celui qui les a placées en aura perdu le contrôle.

2. De placer des mines automatiques de contact amarrées qui ne deviennent pas inoffensives dès qu'elles auront rompu leurs amarres.—Institut, 1913.

### **Commercial blockade.**

ART. 2. It is forbidden to lay automatic contact mines off the coast and ports of the enemy, with the sole object of intercepting commercial shipping.—VIII, H. C. 1907.

ART. 22. Un belligérant ne peut placer des mines devant les côtes et les ports de son adversaire que pour des buts navals et militaires. Il leur est interdit de les y placer pour établir ou maintenir un blocus de commerce.—Institut, 1913.

### **Notification.**

ART. 3. When anchored automatic contact mines are employed, every possible precaution must be taken for the security of peaceful shipping. The belligerents undertake to do their utmost to render these mines harmless within a limited time, and, should they cease to be under surveillance, to notify the danger zones as soon as military exigencies permit, by a notice addressed to ship owners, which must also be communicated to the governments through the diplomatic channel.—VIII, H. C. 1907.

ART. 23. Lorsque des mines automatiques de contact, amarrées ou non amarrées, sont employées, toutes les précautions doivent être prises pour la sécurité de la navigation pacifique. Les belligérants pourvoiront notamment, dans la mesure du possible, à ce que les mines deviennent inoffensives après un laps de temps limité. Dans le cas où les mines cesseraient d'être surveillées par eux, les belligérants signaleront les régions dangereuses, aussitôt que les exigences militaires le permettront, par un avis à la navigation, qui devra aussi être communiqué aux gouvernements par la voie diplomatique.—Institut, 1913.

### **Removal.**

ART. 5. At the close of the war, the contracting powers undertake to do their utmost to remove the mines which they had laid, each power removing its own mines. As regards anchored automatic contact mines laid by one of the belligerents off the coast of the other, their position must be notified to the other party by the power which laid them, and each power must proceed with the least possible delay to remove the mines in its own waters.—VIII, H. C. 1907.

ART. 24. A la fin de la guerre, les Etats belligérants feront tout ce qui dépend d'eux, pour enlever, chacun de son côté, les mines qu'ils auront placées. Quant aux mines automatiques de contact amarrées que l'un des belligérants aurait laissées sur les côtes de l'autre, l'emplacement en sera notifié à l'autre partie par l'Etat qui les aura posées, et chaque Etat devra procéder, dans le plus bref délai, à l'enlèvement des mines qui se trouvent dans ses eaux. Les Etats belligérants auxquels incombe l'obligation d'enlever les mines après la fin de la lutte devront, dans le plus bref délai possible, faire

connaître que l'enlèvement de ces mines a été terminé dans la mesure du possible.—Institut, 1913.

#### Use by neutral.

ART. 4. Neutral powers which lay automatic contact mines off their coasts must observe the same rules and take the same precautions as are imposed on belligerents. The neutral power must inform ship-owners, by a notice issued in advance, where automatic contact mines have been laid. This notice must be communicated at once to the governments through the diplomatic channel.—VIII, H. C. 1907

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## BOMBARDMENT

#### Notification.

ART. 6. If the military situation permits, the commander of the attacking naval force, before commencing the bombardment, must do his utmost to warn the authorities.—IX, H. C. 1907.

ART. 29. Sauf le cas où les exigences militaires ne le permettraient pas, le commandant de la force navale assaillante doit, avant d'entreprendre le bombardement, faire tout ce qui dépend de lui pour avertir les autorités.—Institut, 1913.

111. Unless the military exigencies will not permit, the commander of the attacking naval force, before commencing the bombardment, must do his utmost to warn the authorities.—U. S. Ins. 1917.

#### Exemptions.

ART. 5. In bombardments by naval forces all the necessary measures must be taken by the commander to spare as far as possible sacred edifices, buildings used for artistic, scientific, or charitable purposes, historic monuments, hospitals, and places where the sick or wounded are collected, on the understanding that they are not used at the same time for military purposes. It is the duty of inhabitants to indicate such monuments, edifices, or places by visible signs, which shall consist of large stiff rectangular panels divided diagonally into two colored triangular portions, the upper portion black, the lower portion white.—IX, H. C. 1907.

ART. 28. Dans le bombardement toute dévastation inutile reste interdite et, notamment, toutes les mesures doivent être prises par le commandant de la force assaillante pour épargner, autant que possible, les édifices consacrés aux cultes, aux arts, aux sciences et à la bienfaisance, les monuments historiques, les hôpitaux et les lieux de rassemblement de malades ou de blessés, à condition qu'ils ne soient pas employés en même temps à un but militaire.

Le devoir des habitants est de désigner ces monuments, ces édifices ou lieux de rassemblement par des signes visibles, qui consisteront en grands panneaux rectangulaires rigides, partagés, suivant une

des diagonales, en deux triangles de couleur, noire en haut et blanche en bas.—Institut, 1913.

109. In bombardments by naval forces all necessary measures must be taken by the commander to spare as far as possible, buildings devoted to religion, to the arts and sciences, or to charitable purposes, historic monuments, hospitals, and places where the sick or wounded are collected, on condition that they are not used at the same time for military purposes.—U. S. Ins. 1917.

110. It is the duty of the inhabitants to indicate such monuments, edifices, or places by visible signs, which shall consist of large stiff rectangular panels divided diagonally into two colored triangular portions, the upper portion black, the lower portion white.—U. S. Ins. 1917.

#### **Undefended towns.**

ART. 1. The bombardment by naval forces of undefended ports, towns, villages, dwellings, or buildings is forbidden. A place can not be bombarded solely because automatic submarine contact mines are anchored off the harbor.—IX, H. C. 1907.

ART. 25. *Bombardement.*—Il est interdit de bombarder des ports, villes, villages, habitations ou bâtiments qui ne se défendent pas. Une localité ne peut pas être bombardée à raison du seul fait que, devant ses côtes se trouvent mouillées des mines sous-marines automatiques de contact.—Institut, 1913.

100. The attack or bombardment, by whatever means, of towns, villages, dwellings, or buildings which are undefended is prohibited.—U. S. Ins. 1917.

101. The bombardment by naval forces of undefended ports, towns, villages, dwellings, or buildings is forbidden.—U. S. Ins. 1917.

#### **Mine defenses.**

102. A place can not be bombarded solely because automatic submarine contact mines are anchored off the harbor.—U. S. Ins. 1917.

#### **Military works.**

ART. 2. Military works, military or naval establishments, depots of arms or war matériel, workshops, or plant which could be utilized for the needs of the hostile fleet or army, and the ships of war in the harbor, are not, however, included in this prohibition. The commander of a naval force may destroy them with artillery, after a summons followed by a reasonable time of waiting, if all other means are impossible, and when the local authorities have not themselves destroyed them within the time fixed. He incurs no responsibility for any unavoidable damage which may be caused by a bombardment under such circumstances. If for military reasons immediate action is necessary, and no delay can be allowed the enemy, it is understood that the prohibition to bombard the undefended town

holds good, as in the case given in paragraph 1, and that the commander shall take all due measures in order that the town may suffer as little harm as possible.—IX, H. C. 1907.

ART. 26. Toutefois ne sont pas compris dans cette interdiction les ouvrages militaires, établissements militaires ou navals, dépôts d'armes ou de matériel de guerre, ateliers et installations propres à être utilisés pour les besoins de la flotte ou de l'armée ennemie et les navires de guerre se trouvant dans le port. Le commandant d'une force navale pourra, après sommation avec délai raisonnable, les détruire par le canon, si tout autre moyen est impossible et lorsque les autorités locales n'auront pas procédé à cette destruction dans le délai fixé. Il n'encourt aucune responsabilité dans ce cas pour les dommages involontaires qui pourraient être occasionnés par le bombardement. Si des nécessités militaires exigeant une action immédiate ne permettaient pas d'accorder de délai, il reste entendu que l'interdiction de bombarder une ville qui ne se défend pas, subsiste comme dans le cas énoncé dans l'alinéa 1 et que le commandant prendra toutes les dispositions voulues pour qu'il en résulte pour cette ville le moins d'inconvénients possibles.—Institut, 1913.

103. Military works, military or naval establishments, depots of arms or war matériel, workshops or plants which could be utilized for the needs of the hostile fleet or army, and the ships of war in the harbor, are not, however, included in the foregoing prohibition. The commander of a naval force may destroy them with artillery, after a summons followed by a reasonable delay, if all other means are impossible, and when the local authorities have not themselves destroyed them within the time fixed.—U. S. Ins. 1917.

#### Unavoidable damage.

104. The commander incurs no responsibility for any unavoidable damage which may be caused by a bombardment under such circumstances.—U. S. Ins. 1917.

#### Precautions.

105. If military necessity demanding immediate action permits no delay, nevertheless the prohibition to bombard undefended towns holds good, and the commander shall take all requisite measures in order that the town may suffer as little harm as possible.—U. S. Ins. 1917.

#### Requisitions.

ART. 3. After due notice has been given, the bombardment of undefended ports, towns, villages, dwellings, or buildings may be commenced, if the local authorities, after a formal summons has been made to them, decline to comply with requisitions for provisions or supplies necessary for the immediate use of the naval force before the place in question.

These requisitions shall be in proportion to the resources of the place. They shall only be demanded in the name of the commander of the said naval force, and they shall, as far as possible, be paid for in cash; if not, they shall be evidenced by receipts.—IX, H. C. 1907.

ART. 27. Est interdit le bombardement pour le non paiement des contributions en argent, et en cas de refus d'obtempérer à des requisitions de vivres ou d'approvisionnements, des ports, villes, villages, habitations ou bâtiments qui ne se défendent pas.—Institut, 1913.

106. After explicit notice has been given, the bombardment of undefended ports, towns, villages, dwellings, or buildings may be proceeded with, if the local authorities, after a formal summons has been made to them, decline to comply with requisitions for provisions or supplies necessary for the immediate needs of the naval force before the place in question.—U. S. Ins. 1917.

107. These requisitions shall be in proportion to the resources of the place. They shall only be demanded in the name of the commander of the naval force, and they shall, as far as possible, be paid for in cash; if not, they shall be acknowledged by receipts.—U. S. Ins. 1917.

#### Contributions.

ART. 4. Undefended ports, towns, villages, dwellings, or buildings may not be bombarded on account of failure to pay money contributions.—IX, H. C. 1907.

108. The bombardment of undefended towns, villages, dwellings, or buildings on account of the nonpayment of money contributions is forbidden.—U. S. Ins. 1917.

## WAR ZONES

ART. 50. *Droits du belligérant dans la zone de ses opérations.*—Alors qu'il n'aurait pas le droit de les saisir ou de les capturer, un belligérant peut, même en haute mer, défendre aux navires de l'ennemi d'entrer dans la zone correspondant à la sphère d'action actuelle de ses opérations.

Il peut aussi leur interdire dans cette zone certains actes susceptibles de nuire à son action, notamment certains actes de communication, comme par exemple la télégraphie sans fil.

La simple infraction à ces interdictions entraînera le refoulement, même par la force, du navire hors de la zone interdite et le séquestration des appareils. Le navire, s'il est établi qu'il a communiqué avec l'ennemi pour lui fournir des renseignements sur la conduite des hostilités, pourra être considéré comme s'étant mis à son service et

sera par suite possible de capture ainsi que ses appareils.—Institut, 1913.

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## RETALIATION

ART. 3. In case an enemy does not observe the rules and customs of hostilities and commits unlawful actions, a Japanese naval commander may take steps in retaliation, if the delinquent is not in his power and if reparation for the damages is not obtained, but only when the case is of great necessity. Such retaliation, however, shall not be contrary to humanity and shall not exceed the damages inflicted by the enemy.—Jap. Reg. 1914.

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## OCCUPATION

**Occupation, territorial waters.**

ART. 88. *Occupation: Etendue et effets.*—L'occupation d'un territoire maritime, c'est-à-dire des golfes, baies, rades, ports et eaux territoriales, n'existe que dans les cas où il y a en même temps occupation du territoire continental, soit par une force navale, soit par une force militaire. L'occupation est, en ce cas, soumise aux lois et usages de la guerre terrestre.—Institut, 1913.

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## COMBATANTS

**Personnel, military combatants.**

ART. 11. *Personnel belligérant.*—Font partie de la force armée d'un Etat belligérant et sont dès lors soumis comme tels aux lois de la guerre maritime, en tant qu'ils accomplissent des opérations sur mer :

1. Le personnel des bâtiments indiqués à l'article 2.
2. Les troupes de l'armée de mer, active ou de réserve.
3. Le personnel militarisé existant sur les côtes.
4. Les troupes régulières ou régulièrement organisées conformément à l'article 1 du Règlement de La Haye du 18 octobre 1907 concernant les lois et coutumes de la guerre sur terre, autres que celles de l'armée de mer.—Institut, 1913.

**Levée en masse.**

ART. 13. *Population du territoire non occupé.*—La population d'un territoire non occupé qui, à l'approche de l'ennemi, arme spontanément des navires pour le combattre, sans avoir eu le temps de les faire transformer en bâtiments de guerre conformément aux articles 3 et suivants, sera considérée comme belligérante si elle

agit ouvertement et si elle respecte les lois et usages de la guerre.—Institut, 1913.

#### Spies, definition.

ART. 67.—On ne doit considérer comme espion que l'individu qui agissant clandestinement ou sous de faux prétextes, et dissimulant ainsi ses opérations, recueille ou cherche à recueillir des informations dans la zone d'opérations d'un belligérant avec l'intention de les communiquer à la partie adverse.

Ne peuvent, dès lors, être réputés espions et sont soumis au traitement des prisonniers de guerre, s'ils sont capturés, les militaires non déguisés qui ont pénétré dans la zone d'opérations de la flotte ennemie à l'effet de recueillir des informations. De même, ne sont pas regardés comme espions les militaires et les non militaires accomplissant ouvertement leur mission, qui sont chargés de transmettre des dépêches, ou qui se livrent à la transmission et à la réception de dépêches par télégraphie sans fil. A cette catégorie appartiennent également les individus envoyés en aéronefs ou en hydroaéroplanes pour faire un service d'exploration dans la zone d'opérations de la flotte ennemie ou pour entretenir des communications.—Institut, 1913.

#### Spies, punishment.

ART. 66. *E. Espions.*—L'espion, même pris sur le fait, ne peut être puni sans jugement préalable.—Institut, 1913.

#### Spies, previous act.

ART. 68. L'espion qui réussit à sortir de la zone correspondant à la sphère d'action actuelle des opérations de l'ennemi, ou qui a rejoint la force armée à laquelle il appartient, n'encourt, s'il tombe plus tard au pouvoir de l'ennemi, aucune responsabilité pour ses actes antérieurs.—Institut, 1913.

## PRISONERS OF WAR

#### Prisoners of war, treatment.

ART. 70. *G. Prisonniers de guerre.*—Les prisonniers de guerre sont au pouvoir du gouvernement ennemi, mais non des individus ou des corps qui les ont capturés.

Ils doivent être traités avec humanité.

Tout ce qui leur appartient personnellement (excepté les armes, les chevaux, les papiers militaires, et en général tous objets spécialement adaptés à un but militaire), reste leur propriété.—Institut, 1913.

ART. 71. Les prisonniers de guerre ne peuvent être assujettis à l'internement sur un navire qu'en cas de nécessité et temporairement.—Institut, 1913.

ART. 72. Le gouvernement au pouvoir duquel se trouvent les prisonniers de guerre est chargé de leur entretien.—Institut, 1913.

ART. 73. Tous les prisonniers de guerre seront, aussi longtemps qu'ils se trouvent à bord d'un navire, soumis aux lois, règlements et ordres en vigueur dans la flotte de l'Etat au pouvoir duquel ils se trouvent.—Institut, 1913.

#### **Attempt to escape.**

ART. 74. Les prisonniers évadés qui seraient repris avant d'avoir pu réussir à sortir de la sphère d'action actuelle de l'ennemi, ou avant d'avoir pu rejoindre la force armée à laquelle ils appartiennent, sont passibles de peines disciplinaires.

Les prisonniers qui, après avoir réussi à s'évader, sont de nouveau faits prisonniers, ne sont pas passibles d'aucune peine pour la fuite antérieure.—Institut, 1913.

#### **Grade.**

ART. 75. Chaque prisonnier de guerre est tenu de déclarer, s'il est interrogé à ce sujet, ses véritables nom et grade, et, dans le cas où il enfreindrait cette règle, il s'exposerait à une restriction des avantages accordés aux prisonniers de guerre de sa catégorie.—Institut, 1913.

#### **Parole.**

ART. 76. Les prisonniers de guerre peuvent être mis en liberté sur parole, si les lois de leur pays les y autorisent, et, en pareil cas, ils sont obligés, sous la garantie de leur honneur personnel, de remplir scrupuleusement tant vis-à-vis de leur propre gouvernement que vis-à-vis de celui qui les a faits prisonniers, les engagements qu'ils auraient contractés.

Dans le même cas, leur propre gouvernement est tenu de n'exiger ni accepter d'eux aucun service contraire à la parole donnée.—Institut, 1913.

ART. 77. Un prisonnier de guerre ne peut être contraint d'accepter sa liberté sur parole; de même le gouvernement ennemi n'est pas obligé d'accéder à la demande du prisonnier réclamant sa mise en liberté sur parole.—Institut, 1913.

ART. 78. Tout prisonnier de guerre, libéré sur parole et repris portant les armes contre le gouvernement envers lequel il s'était engagé d'honneur, ou contre les alliés de celui-ci, perd le droit au traitement des prisonniers de guerre et peut être traduit devant le tribunal, à moins que, postérieurement à sa libération, il n'ait été compris dans un cartel d'échange sans conditions.—Institut, 1913.

#### **On land.**

ART. 79. Les prisonniers de la guerre maritime débarqués sur le territoire continental sont soumis aux règles établies pour les prison-

niers de la guerre terrestre. Les mêmes règles doivent être appliquées, dans la mesure du possible, aux prisonniers de guerre internés sur un navire. Les règles qui précèdent, dans la mesure où il est possible de les appliquer, doivent être suivies vis-à-vis des prisonniers internés sur un navire. Les règles qui précèdent, dans la mesure où il est possible de les appliquer, doivent être suivies vis-à-vis des prisonniers internés sur un navire. Les règles qui précèdent, dans la mesure où il est possible de les appliquer, doivent être suivies vis-à-vis des prisonniers internés sur un navire.—Institut, 1913.

#### **After war.**

ART. 80. Après la conclusion de la paix, le repatriement des prisonniers de guerre s'effectuera dans le plus bref délai possible—Institut, 1913.

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## **WOUNDED AND DEAD**

#### **Wounded, care of.**

ART. 11. Sailors and soldiers on board when sick or wounded, as well as other persons officially attached to fleets or armies, whatever their nationality, shall be respected and tended by the captors.—X, H. C. 1907.

ART. 82. Dans le cas de prise ou de saisie d'un navire ennemi ou d'un bâtiment hospitalier qui a manqué à ses obligations, les marins et les militaires embarqués et les autres personnes officiellement attachées aux marines ou aux armées, blessés, malades ou naufragés, à quelque nation qu'ils appartiennent, seront respectés et soignés par les capteurs.—Institut, 1913.

113. Officers will be governed by the provisions of Convention III, Hague, 1899, and Convention X, Hague, 1907, for the adaptation to maritime warfare of the principles of the Geneva convention.—U. S. Ins. 1917.

ART. 81. H. *Blessés, malades, naufragés et morts.*—Les bâtiments employés au service hospitalier porteront secours et assistance aux blessés, malades et naufragés des belligérants sans distinction de nationalité.—Institut, 1913.

ART. XI. Wounded or sick sailors and soldiers, when embarked, to whatever nation they may belong, shall be protected and taken care of by their captors. Their return to their own country is subject to the condition that they are bound not to bear arms again during the war.—Spain, Ins. 1898.

#### **Transfer to warship.**

ART. 12. Any warship belonging to a belligerent may demand that sick, wounded, or shipwrecked men on board military hospital ships, hospital ships belonging to relief societies or to private individuals, merchant ships, yachts, or boats, whatever the nationality of these vessels, should be handed over.—X, H. C. 1907.

ART. 83. Tout vaisseau de guerre d'une partie belligérante peut réclamer la remise des blessés, malades ou naufragés, qui sont à

bord des bâtiments-hôpitaux militaires, de bâtiments hospitaliers de sociétés de secours ou de particuliers, de navires de commerce, yachts et embarcations quelle que soit la nationalité de ces bâtiments.—Institut, 1913.

#### Transfer to neutral vessel.

ART. 13. If sick, wounded, or shipwrecked persons are taken on board a neutral warship, every possible precaution must be taken that they do not again take part in the operations of the war.—X, H. C. 1907.

#### Prisoners of war.

ART. 14. The shipwrecked, wounded, or sick of one of the belligerents who fall into the power of the other belligerent are prisoners of war. The captor must decide, according to circumstances, whether to keep them, send them to a port of his own country, to a neutral port, or even to an enemy port. In this last case, prisoners thus repatriated can not serve again while the war lasts.—X, H. C. 1907.

ART. 84. Sont prisonniers de guerre les naufragés, blessés ou malades d'un belligérant qui tombent au pouvoir de l'autre. Il appartient à celui-ci de décider suivant les circonstances, s'il convient de les garder, de les diriger sur un port de sa nation, sur un port neutre ou même sur un port de son adversaire. Dans ce dernier cas, les prisonniers ainsi rendus à leur pays ne pourront servir pendant la durée de la guerre.—Institut, 1913.

#### Internment in neutral territory.

ART. 15. The shipwrecked, sick, or wounded, who are landed at a neutral port with the consent of the local authorities, must, unless an arrangement is made to the contrary between the neutral state and the belligerent states, be guarded by the neutral state so as to prevent them again taking part in the operations of the war. The expenses of tending them in hospital and interning them shall be borne by the state to which the shipwrecked, sick, or wounded persons belong.—X, H. C. 1907.

#### Care of in joint land and sea operations.

ART. 22. In the case of operations of war between the land and sea forces of belligerents, the provisions of the present convention do not apply except between the forces actually on board ship.—X, H. C. 1907.

ART. 87. En cas d'opérations de guerre entre les forces de terre et de mer des belligérants, les dispositions du présent règlement sur l'assistance hospitalière ne seront applicables qu'aux forces embarquées.—Institut, 1913.

### Wounded and dead, search for.

ART. 16. After every engagement, the two belligerents, so far as military interests permit, shall take steps to look for the shipwrecked, sick, and wounded, and to protect them, as well as the dead, against pillage and ill treatment. They shall see that the burial, whether by land or sea, or cremation of the dead shall be preceded by a careful examination of the corpse.—X, H. C. 1907.

ART. 85. Après chaque combat, les deux parties belligérantes, en tant que les intérêts militaires le comporteront, prendront des mesures pour rechercher les naufragés, les blessés et les malades, et pour les faire protéger ainsi que les morts, contre le pillage et les mauvais traitements. Elles veilleront à ce que l'inhumation, l'immersion ou l'incinération des morts soit précédée d'un examen attentif de leurs cadavres.—Institut, 1913.

### Notification.

ART. 17. Each belligerent shall send, as early as possible, to the authorities of their country, navy, or army the military marks or documents of identity found on the dead and the description of the sick and wounded picked up by him. The belligerents shall keep each other informed as to internments and transfers, as well as to the admissions into hospital and deaths which have occurred among the sick and wounded in their hands. They shall collect all the objects of personal use, valuables, letters, etc., which are found in the captured ships, or which have been left by the sick or wounded who died in hospital, in order to have them forwarded to the persons concerned by the authorities of their own country.—X, H. C. 1907.

ART. 86. Chaque belligérant enverra, dès qu'il sera possible, aux autorités de leur pays, de leur marine ou de leur armée, les marques ou pièces militaires d'identité trouvées sur les et morts et l'état nominatif des blessés ou malades recueillis par lui. Les belligérants se tiendront réciproquement au courant des internements et des mutations, ainsi que des entrées dans les hôpitaux et des décès survenus parmi les blessés et malades en leur pouvoir. Ils recueilleront, pour les faire transmettre aux intéressés par les autorités de leur pays, tous les objets d'un usage personnel, valeurs, lettres, etc., qui seront trouvés dans les vaisseaux pris ou saisis, ou qui seront délaissés par les blessés ou malades décédés dans les hôpitaux.—Institut, 1913.

## CONVENTIONS BETWEEN BELLIGERENTS

ART. 89. *Règles générales.*—Le commandant de toute force navale belligérante peut conclure des conventions de nature purement militaire concernant les forces sous ses ordres. Il ne peut, sans autorisa-

tion de son gouvernement, conclure aucune convention ayant un caractère politique, telle qu'un armistice général.—Institut, 1913.

#### Observance.

ART. 90. Toutes conventions entre belligérants doivent tenir compte des règles de l'honneur militaire et, une fois fixées, doivent être scrupuleusement observées par les deux parties.—Institut, 1913.

#### Capitulations.

ART. 91. *Capitulations.*—Après avoir conclu une capitulation, le commandant ne peut endommager ni détruire les navires, objets ou approvisionnements en sa possession qu'il doit livrer, à moins que le droit d'agir ainsi ne lui ait été expressément réservé dans la capitulation.—Institut, 1913.

#### Armistice.

ART. 92. *Armistice.*—L'armistice suspend les opérations de la guerre. Les blocus établis au moment de l'armistice ne sont pas levés, à moins d'une stipulation spéciale dans la convention. Le droit de visite continue à pouvoir être exercé. Le droit de capture cesse hormis les cas où ce droit existerait à l'égard des navires neutres.

ART. 93. L'armistice peut être général ou partiel. Le premier suspend partout les opérations de guerre des Etats belligérants; le second seulement entre certaines fractions de forces belligérantes et dans un rayon déterminé.

ART. 94. La convention qui stipule un armistice doit indiquer avec précision le moment où il commence et celui où il doit finir. L'armistice doit être notifié officiellement et en temps utile par chaque belligérant aux autorités compétentes ainsi qu'aux forces intéressées.

ART. 95. Les hostilités sont suspendues au terme fixé par la convention, ou, si un terme n'a pas été établi, immédiatement après la notification de l'armistice. Si la durée de l'armistice n'a pas été déterminée, les parties belligérantes peuvent reprendre en tout temps les opérations, pourvu toutefois que l'ennemi soit averti en temps utile.

ART. 96. Les clauses de l'armistice naval fixeront, au cas où elles admettraient l'accès des bâtiments de guerre des belligérants à certains points du littoral ennemi, les conditions de cet accès et les rapports de ces bâtiments soit avec les autorités locales, soit avec les populations.

ART. 97. Toute violation grave de l'armistice par l'une des parties donne à l'autre le droit de le dénoncer et même, en cas d'urgence, de reprendre immédiatement les hostilités.

ART. 98. La violation des clauses de l'armistice par des particuliers isolés, agissant de leur propre initiative, donne droit seulement à réclamer la punition des coupables et, s'il y a lieu, une indemnité pour les pertes éprouvées.—Institut, 1913.

**Suspension of arms.**

ART. 99. *Suspension d'armes.*—La suspension d'armes doit, comme l'armistice, fixer avec précision le point de départ de l'arrêt des hostilités et le moment où doit cesser son effet. S'il n'y a pas de délai fixé pour la reprise des hostilités, le belligérant qui se propose de continuer la lutte doit en prévenir l'ennemi en temps utile. La rupture d'une suspension d'armes par l'un des belligérants ou par des particuliers isolés entraîne les conséquences visées aux articles 97 et 98.—Institut, 1913.

**Termination of war.**

ART. 116. *Paix.*—Les actes d'hostilité doivent cesser par la signature de la paix. L'avis de la fin de la guerre doit être notifié dans le plus bref délai par chaque gouvernement au commandant de ses forces navales. Lorsque des actes hostiles ont été accomplis après la signature de la paix, on doit, autant que possible, remettre les choses en état. Lorsqu'ils ont été accomplis après connaissance de l'avis officiel du traité de paix, ils donneront lieu à une indemnité et à la punition des coupables.—Institut, 1913.

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**RESPONSIBILITY****Criminal responsibility.**

ART. 21. The signatory powers likewise undertake to enact or to propose to their legislatures, if their criminal laws are inadequate the measures necessary for checking in time of war individual acts of pillage and ill-treatment in respect to the sick and wounded in the fleet, as well as for punishing, as an unjustifiable adoption of naval or military marks, the unauthorized use of the distinctive marks mentioned in Article V by vessels not protected by the present convention. They will communicate to each other, through the Netherlands Government, the enactments for preventing such acts at the latest within five years of the ratification of the present convention.—X, H. C. 1907.



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